



Rep. Harry Benton

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10300HB5367ham003

LRB103 38513 CES 72274 a

1 AMENDMENT TO HOUSE BILL 5367

2 AMENDMENT NO. _____. Amend House Bill 5367, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Video Gaming Act is amended by changing
6 Section 25 as follows:

7 (230 ILCS 40/25)

8 Sec. 25. Restriction of licensees.

9 (a) Manufacturer. A person may not be licensed as a
10 manufacturer of a video gaming terminal in Illinois unless the
11 person has a valid manufacturer's license issued under this
12 Act. A manufacturer may only sell video gaming terminals for
13 use in Illinois to persons having a valid distributor's
14 license.

15 (b) Distributor. A person may not sell, distribute, or
16 lease or market a video gaming terminal in Illinois unless the

1 person has a valid distributor's license issued under this
2 Act. A distributor may only sell video gaming terminals for
3 use in Illinois to persons having a valid distributor's or
4 terminal operator's license.

5 (c) Terminal operator. A person may not own, maintain, or
6 place a video gaming terminal unless he has a valid terminal
7 operator's license issued under this Act. A terminal operator
8 may only place video gaming terminals for use in Illinois in
9 licensed establishments, licensed truck stop establishments,
10 licensed large truck stop establishments, licensed fraternal
11 establishments, and licensed veterans establishments. No
12 terminal operator may give anything of value, including but
13 not limited to a loan or financing arrangement, to a licensed
14 establishment, licensed truck stop establishment, licensed
15 large truck stop establishment, licensed fraternal
16 establishment, or licensed veterans establishment as any
17 incentive or inducement to locate video terminals in that
18 establishment. Of the after-tax profits from a video gaming
19 terminal, 50% shall be paid to the terminal operator and 50%
20 shall be paid to the licensed establishment, licensed truck
21 stop establishment, licensed large truck stop establishment,
22 licensed fraternal establishment, or licensed veterans
23 establishment, notwithstanding any agreement to the contrary.
24 A video terminal operator that violates one or more
25 requirements of this subsection is guilty of a Class 4 felony
26 and is subject to termination of his or her license by the

1 Board.

2 (d) Licensed technician. A person may not service,
3 maintain, or repair a video gaming terminal in this State
4 unless he or she (1) has a valid technician's license issued
5 under this Act, (2) is a terminal operator, or (3) is employed
6 by a terminal operator, distributor, or manufacturer.

7 (d-5) Licensed terminal handler. No person, including, but
8 not limited to, an employee or independent contractor working
9 for a manufacturer, distributor, supplier, technician, or
10 terminal operator licensed pursuant to this Act, shall have
11 possession or control of a video gaming terminal, or access to
12 the inner workings of a video gaming terminal, unless that
13 person possesses a valid terminal handler's license issued
14 under this Act.

15 (d-10) Solicitation of use agreements. A person may not
16 solicit the signing of a use agreement on behalf of a terminal
17 operator or enter into a use agreement as agent of a terminal
18 operator unless that person either has a valid sales agent and
19 broker license issued under this Act or owns, manages, or
20 significantly influences or controls the terminal operator.

21 (e) Licensed establishment. No video gaming terminal may
22 be placed in any licensed establishment, licensed veterans
23 establishment, licensed truck stop establishment, licensed
24 large truck stop establishment, or licensed fraternal
25 establishment unless the owner or agent of the owner of the
26 licensed establishment, licensed veterans establishment,

1 licensed truck stop establishment, licensed large truck stop
2 establishment, or licensed fraternal establishment has entered
3 into a written use agreement with the terminal operator for
4 placement of the terminals. A copy of the use agreement shall
5 be on file in the terminal operator's place of business and
6 available for inspection by individuals authorized by the
7 Board. A licensed establishment, licensed truck stop
8 establishment, licensed veterans establishment, or licensed
9 fraternal establishment may operate up to 6 video gaming
10 terminals on its premises at any time. A licensed large truck
11 stop establishment may operate up to 10 video gaming terminals
12 on its premises at any time.

13 (f) (Blank).

14 (g) Financial interest restrictions. As used in this Act,
15 "substantial interest" in a partnership, a corporation, an
16 organization, an association, a business, or a limited
17 liability company means:

18 (A) When, with respect to a sole proprietorship, an
19 individual or his or her spouse owns, operates, manages,
20 or conducts, directly or indirectly, the organization,
21 association, or business, or any part thereof; or

22 (B) When, with respect to a partnership, the
23 individual or his or her spouse shares in any of the
24 profits, or potential profits, of the partnership
25 activities; or

26 (C) When, with respect to a corporation, an individual

1 or his or her spouse is an officer or director, or the
2 individual or his or her spouse is a holder, directly or
3 beneficially, of 5% or more of any class of stock of the
4 corporation; or

5 (D) When, with respect to an organization not covered
6 in (A), (B) or (C) above, an individual or his or her
7 spouse is an officer or manages the business affairs, or
8 the individual or his or her spouse is the owner of or
9 otherwise controls 10% or more of the assets of the
10 organization; or

11 (E) When an individual or his or her spouse furnishes
12 5% or more of the capital, whether in cash, goods, or
13 services, for the operation of any business, association,
14 or organization during any calendar year; or

15 (F) When, with respect to a limited liability company,
16 an individual or his or her spouse is a member, or the
17 individual or his or her spouse is a holder, directly or
18 beneficially, of 5% or more of the membership interest of
19 the limited liability company.

20 For purposes of this subsection (g), "individual" includes
21 all individuals or their spouses whose combined interest would
22 qualify as a substantial interest under this subsection (g)
23 and whose activities with respect to an organization,
24 association, or business are so closely aligned or coordinated
25 as to constitute the activities of a single entity.

26 (h) Location restriction. A licensed establishment,

1 licensed truck stop establishment, licensed large truck stop
2 establishment, licensed fraternal establishment, or licensed
3 veterans establishment that is (i) located within 1,000 feet
4 of a facility operated by an organization licensee licensed
5 under the Illinois Horse Racing Act of 1975 or the home dock of
6 a riverboat licensed under the Illinois Gambling Act or (ii)
7 located within 100 feet of a school or a place of worship under
8 the Religious Corporation Act, is ineligible to operate a
9 video gaming terminal. The location restrictions in this
10 subsection (h) do not apply if (A) a facility operated by an
11 organization licensee, a school, or a place of worship moves
12 to or is established within the restricted area after a
13 licensed establishment, licensed truck stop establishment,
14 licensed large truck stop establishment, licensed fraternal
15 establishment, or licensed veterans establishment becomes
16 licensed under this Act or (B) a school or place of worship
17 moves to or is established within the restricted area after a
18 licensed establishment, licensed truck stop establishment,
19 licensed large truck stop establishment, licensed fraternal
20 establishment, or licensed veterans establishment obtains its
21 original liquor license. For the purpose of this subsection,
22 "school" means an elementary or secondary public school, or an
23 elementary or secondary private school registered with or
24 recognized by the State Board of Education.

25 Notwithstanding the provisions of this subsection (h), the
26 Board may waive the requirement that a licensed establishment,

1 licensed truck stop establishment, licensed large truck stop
2 establishment, licensed fraternal establishment, or licensed
3 veterans establishment not be located within 1,000 feet from a
4 facility operated by an organization licensee licensed under
5 the Illinois Horse Racing Act of 1975 or the home dock of a
6 riverboat licensed under the Illinois Gambling Act. The Board
7 shall not grant such waiver if there is any common ownership or
8 control, shared business activity, or contractual arrangement
9 of any type between the establishment and the organization
10 licensee or owners licensee of a riverboat. The Board shall
11 adopt rules to implement the provisions of this paragraph.

12 Notwithstanding the provisions of this subsection (h), the
13 Board may waive the requirement that a licensed establishment,
14 licensed truck stop establishment, licensed large truck stop
15 establishment, licensed fraternal establishment, or licensed
16 veterans establishment not be located within 100 feet of a
17 place of worship under the Religious Corporation Act if:

18 (1) the licensed establishment, licensed truck stop
19 establishment, licensed large truck stop establishment,
20 licensed fraternal establishment, or licensed veterans
21 establishment is not located within 100 feet of a school
22 or, if the establishment is located within 100 feet of a
23 school, the superintendent of the school district or the
24 chief administrative officer of the nonpublic school has
25 signed a letter of support for the waiver;

26 (2) the mayor or president of the municipality or, if

1 within an unincorporated area of a county, the chairperson
2 of the county board where the licensed establishment,
3 licensed truck stop establishment, licensed large truck
4 stop establishment, licensed fraternal establishment, or
5 licensed veterans establishment is located has signed a
6 letter of support for the waiver; and

7 (3) the principal religious leader at the place of
8 worship has not indicated his or her opposition to the
9 waiver in writing.

10 (h-5) Restrictions on licenses in malls. The Board shall
11 not grant an application to become a licensed video gaming
12 location if the Board determines that granting the application
13 would more likely than not cause a terminal operator,
14 individually or in combination with other terminal operators,
15 licensed video gaming location, or other person or entity, to
16 operate the video gaming terminals in 2 or more licensed video
17 gaming locations as a single video gaming operation.

18 (1) In making determinations under this subsection
19 (h-5), factors to be considered by the Board shall
20 include, but not be limited to, the following:

21 (A) the physical aspects of the location;

22 (B) the ownership, control, or management of the
23 location;

24 (C) any arrangements, understandings, or
25 agreements, written or otherwise, among or involving
26 any persons or entities that involve the conducting of

1 any video gaming business or the sharing of costs or
2 revenues; and

3 (D) the manner in which any terminal operator or
4 other related entity markets, advertises, or otherwise
5 describes any location or locations to any other
6 person or entity or to the public.

7 (2) The Board shall presume, subject to rebuttal, that
8 the granting of an application to become a licensed video
9 gaming location within a mall will cause a terminal
10 operator, individually or in combination with other
11 persons or entities, to operate the video gaming terminals
12 in 2 or more licensed video gaming locations as a single
13 video gaming operation if the Board determines that
14 granting the license would create a local concentration of
15 licensed video gaming locations.

16 For the purposes of this subsection (h-5):

17 "Mall" means a building, or adjoining or connected
18 buildings, containing 4 or more separate locations.

19 "Video gaming operation" means the conducting of video
20 gaming and all related activities.

21 "Location" means a space within a mall containing a
22 separate business, a place for a separate business, or a place
23 subject to a separate leasing arrangement by the mall owner.

24 "Licensed video gaming location" means a licensed
25 establishment, licensed fraternal establishment, licensed
26 veterans establishment, licensed truck stop establishment, or

1 licensed large truck stop.

2 "Local concentration of licensed video gaming locations"
3 means that the combined number of licensed video gaming
4 locations within a mall exceed half of the separate locations
5 within the mall.

6 (i) Undue economic concentration. In addition to
7 considering all other requirements under this Act, in deciding
8 whether to approve the operation of video gaming terminals by
9 a terminal operator in a location, the Board shall consider
10 the impact of any economic concentration of such operation of
11 video gaming terminals. The Board shall not allow a terminal
12 operator to operate video gaming terminals if the Board
13 determines such operation will result in undue economic
14 concentration. For purposes of this Section, "undue economic
15 concentration" means that a terminal operator would have such
16 actual or potential influence over video gaming terminals in
17 Illinois as to:

18 (1) substantially impede or suppress competition among
19 terminal operators;

20 (2) adversely impact the economic stability of the
21 video gaming industry in Illinois; or

22 (3) negatively impact the purposes of the Video Gaming
23 Act.

24 The Board shall adopt rules concerning undue economic
25 concentration with respect to the operation of video gaming
26 terminals in Illinois. The rules shall include, but not be

1 limited to, (i) limitations on the number of video gaming
2 terminals operated by any terminal operator within a defined
3 geographic radius and (ii) guidelines on the discontinuation
4 of operation of any such video gaming terminals the Board
5 determines will cause undue economic concentration.

6 (j) The provisions of the Illinois Antitrust Act are fully
7 and equally applicable to the activities of any licensee under
8 this Act.

9 (Source: P.A. 101-31, eff. 6-28-19; 102-689, eff. 12-17-21.)".