

SB0149



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0149

Introduced 2/9/2021, by Sen. Dale Fowler

SYNOPSIS AS INTRODUCED:

230 ILCS 40/25

Amends the Video Gaming Act. Provides that in determining whether the location of an establishment authorized to conduct video gaming complies with the Act, the Illinois Gaming Board shall only consider the initial inspection report submitted to the Board with the application for a licensed establishment, licensed truck stop establishment, licensed large truck stop establishment, licensed fraternal establishment, or licensed veterans establishment.

LRB102 10564 SMS 15893 b

A BILL FOR

1 AN ACT concerning gaming.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 (230 ILCS 40/25)

7 Sec. 25. Restriction of licensees.

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

14 (b) Distributor. A person may not sell, distribute, or
15 lease or market a video gaming terminal in Illinois unless the
16 person has a valid distributor's license issued under this
17 Act. A distributor may only sell video gaming terminals for
18 use in Illinois to persons having a valid distributor's or
19 terminal operator's license.

20 (c) Terminal operator. A person may not own, maintain, or
21 place a video gaming terminal unless he has a valid terminal
22 operator's license issued under this Act. A terminal operator
23 may only place video gaming terminals for use in Illinois in

1 licensed establishments, licensed truck stop establishments,
2 licensed large truck stop establishments, licensed fraternal
3 establishments, and licensed veterans establishments. No
4 terminal operator may give anything of value, including but
5 not limited to a loan or financing arrangement, to a licensed
6 establishment, licensed truck stop establishment, licensed
7 large truck stop establishment, licensed fraternal
8 establishment, or licensed veterans establishment as any
9 incentive or inducement to locate video terminals in that
10 establishment. Of the after-tax profits from a video gaming
11 terminal, 50% shall be paid to the terminal operator and 50%
12 shall be paid to the licensed establishment, licensed truck
13 stop establishment, licensed large truck stop establishment,
14 licensed fraternal establishment, or licensed veterans
15 establishment, notwithstanding any agreement to the contrary.
16 A video terminal operator that violates one or more
17 requirements of this subsection is guilty of a Class 4 felony
18 and is subject to termination of his or her license by the
19 Board.

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

25 (d-5) Licensed terminal handler. No person, including, but
26 not limited to, an employee or independent contractor working

1 for a manufacturer, distributor, supplier, technician, or
2 terminal operator licensed pursuant to this Act, shall have
3 possession or control of a video gaming terminal, or access to
4 the inner workings of a video gaming terminal, unless that
5 person possesses a valid terminal handler's license issued
6 under this Act.

7 (e) Licensed establishment. No video gaming terminal may
8 be placed in any licensed establishment, licensed veterans
9 establishment, licensed truck stop establishment, licensed
10 large truck stop establishment, or licensed fraternal
11 establishment unless the owner or agent of the owner of the
12 licensed establishment, licensed veterans establishment,
13 licensed truck stop establishment, licensed large truck stop
14 establishment, or licensed fraternal establishment has entered
15 into a written use agreement with the terminal operator for
16 placement of the terminals. A copy of the use agreement shall
17 be on file in the terminal operator's place of business and
18 available for inspection by individuals authorized by the
19 Board. A licensed establishment, licensed truck stop
20 establishment, licensed veterans establishment, or licensed
21 fraternal establishment may operate up to 6 video gaming
22 terminals on its premises at any time. A licensed large truck
23 stop establishment may operate up to 10 video gaming terminals
24 on its premises at any time.

25 (f) (Blank).

26 (g) Financial interest restrictions. As used in this Act,

1 "substantial interest" in a partnership, a corporation, an
2 organization, an association, a business, or a limited
3 liability company means:

4 (A) When, with respect to a sole proprietorship, an
5 individual or his or her spouse owns, operates, manages,
6 or conducts, directly or indirectly, the organization,
7 association, or business, or any part thereof; or

8 (B) When, with respect to a partnership, the
9 individual or his or her spouse shares in any of the
10 profits, or potential profits, of the partnership
11 activities; or

12 (C) When, with respect to a corporation, an individual
13 or his or her spouse is an officer or director, or the
14 individual or his or her spouse is a holder, directly or
15 beneficially, of 5% or more of any class of stock of the
16 corporation; or

17 (D) When, with respect to an organization not covered
18 in (A), (B) or (C) above, an individual or his or her
19 spouse is an officer or manages the business affairs, or
20 the individual or his or her spouse is the owner of or
21 otherwise controls 10% or more of the assets of the
22 organization; or

23 (E) When an individual or his or her spouse furnishes
24 5% or more of the capital, whether in cash, goods, or
25 services, for the operation of any business, association,
26 or organization during any calendar year; or

1 (F) When, with respect to a limited liability company,
2 an individual or his or her spouse is a member, or the
3 individual or his or her spouse is a holder, directly or
4 beneficially, of 5% or more of the membership interest of
5 the limited liability company.

6 For purposes of this subsection (g), "individual" includes
7 all individuals or their spouses whose combined interest would
8 qualify as a substantial interest under this subsection (g)
9 and whose activities with respect to an organization,
10 association, or business are so closely aligned or coordinated
11 as to constitute the activities of a single entity.

12 (h) Location restriction. A licensed establishment,
13 licensed truck stop establishment, licensed large truck stop
14 establishment, licensed fraternal establishment, or licensed
15 veterans establishment that is (i) located within 1,000 feet
16 of a facility operated by an organization licensee licensed
17 under the Illinois Horse Racing Act of 1975 or the home dock of
18 a riverboat licensed under the Illinois Gambling Act or (ii)
19 located within 100 feet of a school or a place of worship under
20 the Religious Corporation Act, is ineligible to operate a
21 video gaming terminal. The location restrictions in this
22 subsection (h) do not apply if (A) a facility operated by an
23 organization licensee, a school, or a place of worship moves
24 to or is established within the restricted area after a
25 licensed establishment, licensed truck stop establishment,
26 licensed large truck stop establishment, licensed fraternal

1 establishment, or licensed veterans establishment becomes
2 licensed under this Act or (B) a school or place of worship
3 moves to or is established within the restricted area after a
4 licensed establishment, licensed truck stop establishment,
5 licensed large truck stop establishment, licensed fraternal
6 establishment, or licensed veterans establishment obtains its
7 original liquor license. For the purpose of this subsection,
8 "school" means an elementary or secondary public school, or an
9 elementary or secondary private school registered with or
10 recognized by the State Board of Education. In making
11 determinations under this subsection (h), the Board shall only
12 consider the initial inspection report submitted to the Board
13 with the application for a licensed establishment, licensed
14 truck stop establishment, licensed large truck stop
15 establishment, licensed fraternal establishment, or licensed
16 veterans establishment.

17 Notwithstanding the provisions of this subsection (h), the
18 Board may waive the requirement that a licensed establishment,
19 licensed truck stop establishment, licensed large truck stop
20 establishment, licensed fraternal establishment, or licensed
21 veterans establishment not be located within 1,000 feet from a
22 facility operated by an organization licensee licensed under
23 the Illinois Horse Racing Act of 1975 or the home dock of a
24 riverboat licensed under the Illinois Gambling Act. The Board
25 shall not grant such waiver if there is any common ownership or
26 control, shared business activity, or contractual arrangement

1 of any type between the establishment and the organization
2 licensee or owners licensee of a riverboat. The Board shall
3 adopt rules to implement the provisions of this paragraph.

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

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

15 (A) the physical aspects of the location;

16 (B) the ownership, control, or management of the
17 location;

18 (C) any arrangements, understandings, or
19 agreements, written or otherwise, among or involving
20 any persons or entities that involve the conducting of
21 any video gaming business or the sharing of costs or
22 revenues; and

23 (D) the manner in which any terminal operator or
24 other related entity markets, advertises, or otherwise
25 describes any location or locations to any other
26 person or entity or to the public.

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

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

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

13 "Video gaming operation" means the conducting of video
14 gaming and all related activities.

15 "Location" means a space within a mall containing a
16 separate business, a place for a separate business, or a place
17 subject to a separate leasing arrangement by the mall owner.

18 "Licensed video gaming location" means a licensed
19 establishment, licensed fraternal establishment, licensed
20 veterans establishment, licensed truck stop establishment, or
21 licensed large truck stop.

22 "Local concentration of licensed video gaming locations"
23 means that the combined number of licensed video gaming
24 locations within a mall exceed half of the separate locations
25 within the mall.

26 (i) Undue economic concentration. In addition to

1 considering all other requirements under this Act, in deciding
2 whether to approve the operation of video gaming terminals by
3 a terminal operator in a location, the Board shall consider
4 the impact of any economic concentration of such operation of
5 video gaming terminals. The Board shall not allow a terminal
6 operator to operate video gaming terminals if the Board
7 determines such operation will result in undue economic
8 concentration. For purposes of this Section, "undue economic
9 concentration" means that a terminal operator would have such
10 actual or potential influence over video gaming terminals in
11 Illinois as to:

12 (1) substantially impede or suppress competition among
13 terminal operators;

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

16 (3) negatively impact the purposes of the Video Gaming
17 Act.

18 The Board shall adopt rules concerning undue economic
19 concentration with respect to the operation of video gaming
20 terminals in Illinois. The rules shall include, but not be
21 limited to, (i) limitations on the number of video gaming
22 terminals operated by any terminal operator within a defined
23 geographic radius and (ii) guidelines on the discontinuation
24 of operation of any such video gaming terminals the Board
25 determines will cause undue economic concentration.

26 (j) The provisions of the Illinois Antitrust Act are fully

1 and equally applicable to the activities of any licensee under
2 this Act.

3 (Source: P.A. 101-31, eff. 6-28-19.)