

102ND GENERAL ASSEMBLY State of Illinois 2021 and 2022 SB0584

Introduced 2/24/2021, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

230 ILCS 40/5 230 ILCS 40/25 230 ILCS 40/30 230 ILCS 40/45

Amends the Video Gaming Act. Creates a sales agent and broker license to solicit or receive business from current or potential establishments licensed under the Act. Provides that a person may not solicit the signing of a use agreement on behalf of a terminal operator or enter into a use agreement as agent of a terminal operator unless that person either has a valid sales agent and broker license or owns, manages, or significantly influences or controls the terminal operator. Provides the fee for the issuance and renewal for the sales agent and broker license. Effective immediately.

LRB102 02832 SMS 12840 b

FISCAL NOTE ACT MAY APPLY

1 AN ACT concerning gaming.

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

- 4 Section 20. The Video Gaming Act is amended by changing
- 5 Sections 5, 25, 30, and 45 as follows:
- 6 (230 ILCS 40/5)
- 7 Sec. 5. Definitions. As used in this Act:
- 8 "Board" means the Illinois Gaming Board.
- 9 "Credit" means one, 5, 10, or 25 cents either won or
- 10 purchased by a player.
- "Distributor" means an individual, partnership,
- 12 corporation, or limited liability company licensed under this
- 13 Act to buy, sell, lease, or distribute video gaming terminals
- or major components or parts of video gaming terminals to or
- 15 from terminal operators.
- 16 "Electronic card" means a card purchased from a licensed
- 17 establishment, licensed fraternal establishment, licensed
- 18 veterans establishment, licensed truck stop establishment, or
- 19 licensed large truck stop establishment for use in that
- 20 establishment as a substitute for cash in the conduct of
- 21 gaming on a video gaming terminal.
- "Electronic voucher" means a voucher printed by an
- 23 electronic video game machine that is redeemable in the

1 licensed establishment for which it was issued.

"In-location bonus jackpot" means one or more video gaming terminals at a single licensed establishment that allows for wagers placed on such video gaming terminals to contribute to a cumulative maximum jackpot of up to \$10,000.

"Terminal operator" means an individual, partnership, corporation, or limited liability company that is licensed under this Act and that owns, services, and maintains video gaming terminals for placement in licensed establishments, licensed truck stop establishments, licensed large truck stop establishments, licensed fraternal establishments, or licensed veterans establishments.

"Licensed technician" means an individual who is licensed under this Act to repair, service, and maintain video gaming terminals.

"Licensed terminal handler" means a person, including but not limited to an employee or independent contractor working for a manufacturer, distributor, supplier, technician, or terminal operator, who is licensed under this Act to possess or control a video gaming terminal or to have access to the inner workings of a video gaming terminal. A licensed terminal handler does not include an individual, partnership, corporation, or limited liability company defined as a manufacturer, distributor, supplier, technician, or terminal operator under this Act.

"Manufacturer" means an individual, partnership,

- 1 corporation, or limited liability company that is licensed
- 2 under this Act and that manufactures or assembles video gaming
- 3 terminals.
- 4 "Supplier" means an individual, partnership, corporation,
- 5 or limited liability company that is licensed under this Act
- 6 to supply major components or parts to video gaming terminals
- 7 to licensed terminal operators.
- 8 "Net terminal income" means money put into a video gaming
- 9 terminal minus credits paid out to players.
- "Video gaming terminal" means any electronic video game
- 11 machine that, upon insertion of cash, electronic cards or
- 12 vouchers, or any combination thereof, is available to play or
- 13 simulate the play of a video game, including but not limited to
- 14 video poker, line up, and blackjack, as authorized by the
- Board utilizing a video display and microprocessors in which
- 16 the player may receive free games or credits that can be
- 17 redeemed for cash. The term does not include a machine that
- 18 directly dispenses coins, cash, or tokens or is for amusement
- 19 purposes only.
- 20 "Licensed establishment" means any licensed retail
- 21 establishment where alcoholic liquor is drawn, poured, mixed,
- 22 or otherwise served for consumption on the premises, whether
- the establishment operates on a nonprofit or for-profit basis.
- "Licensed establishment" includes any such establishment that
- 25 has a contractual relationship with an inter-track wagering
- location licensee licensed under the Illinois Horse Racing Act

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of 1975, provided any contractual relationship shall not 1 2 include any transfer or offer of revenue from the operation of video gaming under this Act to any licensee licensed under the 3 Illinois Horse Racing Act of 1975. Provided, however, that the 5 establishment that has such а relationship with an inter-track wagering location licensee 6 may not, itself, be (i) an inter-track wagering location 7 8 licensee, (ii) the corporate parent or subsidiary of any 9 licensee licensed under the Illinois Horse Racing Act of 1975, 10 or (iii) the corporate subsidiary of a corporation that is 11 also the corporate parent or subsidiary of any licensee 12 licensed under the Illinois Horse Racing Act of 1975. 13 "Licensed establishment" does not include a facility operated 14 by an organization licensee, an inter-track wagering licensee, 15 or an inter-track wagering location licensee licensed under 16 the Illinois Horse Racing Act of 1975 or a riverboat licensed 17 under the Illinois Gambling Act, except as provided in this paragraph. The changes made to this definition by Public Act 18 98-587 are declarative of existing law. 19

"Licensed fraternal establishment" means the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

"Licensed veterans establishment" means the location where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.

"Licensed truck stop establishment" means a facility (i) that is at least a 3-acre facility with a convenience store, (ii) with separate diesel islands for fueling commercial motor vehicles, (iii) that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and (iv) with parking spaces for commercial motor vehicles. "Commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code. The requirement of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.

"Licensed large truck stop establishment" means a facility located within 3 road miles from a freeway interchange, as measured in accordance with the Department of Transportation's rules regarding the criteria for the installation of business signs: (i) that is at least a 3-acre facility with a convenience store, (ii) with separate diesel islands for fueling commercial motor vehicles, (iii) that sells at retail more than 50,000 gallons of diesel or biodiesel fuel per month, and (iv) with parking spaces for commercial motor vehicles. "Commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code. The requirement of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least 50,000 gallons per month.

"Sales agent and broker" means an individual, partnership, corporation, limited liability company, or other business

- 1 entity engaged in the solicitation or receipt of business from
- 2 current or potential licensed establishments, licensed
- 3 <u>fraternal establishments</u>, <u>licensed veterans establishments</u>,
- 4 licensed truck stop establishments, or licensed large truck
- 5 stop establishments either on an employment or contractual
- 6 <u>basis.</u>
- 7 (Source: P.A. 101-31, eff. 6-28-19.)
- 8 (230 ILCS 40/25)
- 9 Sec. 25. Restriction of licensees.
- 10 (a) Manufacturer. A person may not be licensed as a
- 11 manufacturer of a video gaming terminal in Illinois unless the
- 12 person has a valid manufacturer's license issued under this
- 13 Act. A manufacturer may only sell video gaming terminals for
- 14 use in Illinois to persons having a valid distributor's
- 15 license.
- 16 (b) Distributor. A person may not sell, distribute, or
- 17 lease or market a video gaming terminal in Illinois unless the
- 18 person has a valid distributor's license issued under this
- 19 Act. A distributor may only sell video gaming terminals for
- 20 use in Illinois to persons having a valid distributor's or
- 21 terminal operator's license.
- 22 (c) Terminal operator. A person may not own, maintain, or
- 23 place a video gaming terminal unless he has a valid terminal
- operator's license issued under this Act. A terminal operator
- 25 may only place video gaming terminals for use in Illinois in

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licensed establishments, licensed truck stop establishments, 1 2 licensed large truck stop establishments, licensed fraternal establishments, and licensed veterans establishments. 3 terminal operator may give anything of value, including but 5 not limited to a loan or financing arrangement, to a licensed establishment, licensed truck stop establishment, licensed 6 establishment, 7 truck stop licensed fraternal establishment, or licensed veterans establishment as any 8 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 stop establishment, licensed large truck stop establishment, 13 14 licensed fraternal establishment, or licensed veterans 15 establishment, notwithstanding any agreement to the contrary. 16 video terminal operator that violates one 17 requirements of this subsection is guilty of a Class 4 felony and is subject to termination of his or her license by the 18 19 Board.

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

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

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

(e) Licensed establishment. No video gaming terminal may be placed in any licensed establishment, licensed veterans establishment, licensed truck stop establishment, licensed large truck stop establishment, or licensed fraternal establishment unless the owner or agent of the owner of the licensed establishment, licensed veterans establishment, licensed truck stop establishment, licensed large truck stop establishment, or licensed fraternal establishment has entered into a written use agreement with the terminal operator for placement of the terminals. A copy of the use agreement shall be on file in the terminal operator's place of business and available for inspection by individuals authorized by the Board. A licensed establishment, licensed truck establishment, licensed veterans establishment, or licensed

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- fraternal establishment may operate up to 6 video gaming 1 terminals on its premises at any time. A licensed large truck 2 3 stop establishment may operate up to 10 video gaming terminals on its premises at any time.
 - (f) (Blank).
 - (q) Financial interest restrictions. As used in this Act, "substantial interest" in a partnership, a corporation, an organization, an association, a business, or a limited liability company means:
 - (A) When, with respect to a sole proprietorship, an individual or his or her spouse owns, operates, manages, or conducts, directly or indirectly, the organization, association, or business, or any part thereof; or
 - When, with respect to a partnership, individual or his or her spouse shares in any of the profits, or potential profits, of the partnership activities; or
 - (C) When, with respect to a corporation, an individual or his or her spouse is an officer or director, or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of any class of stock of the corporation; or
 - (D) When, with respect to an organization not covered in (A), (B) or (C) above, an individual or his or her spouse is an officer or manages the business affairs, or the individual or his or her spouse is the owner of or

otherwise controls 10% or more of the assets of the organization; or

- (E) When an individual or his or her spouse furnishes 5% or more of the capital, whether in cash, goods, or services, for the operation of any business, association, or organization during any calendar year; or
- (F) When, with respect to a limited liability company, an individual or his or her spouse is a member, or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of the membership interest of the limited liability company.

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

(h) Location restriction. A licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment that is (i) located within 1,000 feet of a facility operated by an organization licensee licensed under the Illinois Horse Racing Act of 1975 or the home dock of a riverboat licensed under the Illinois Gambling Act or (ii) located within 100 feet of a school or a place of worship under the Religious Corporation Act, is ineligible to operate a

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video gaming terminal. The location restrictions in this subsection (h) do not apply if (A) a facility operated by an organization licensee, a school, or a place of worship moves to or is established within the restricted area after a licensed establishment, licensed truck stop establishment, licensed large truck stop establishment, licensed fraternal establishment, or licensed veterans establishment becomes licensed under this Act or (B) a school or place of worship moves to or is established within the restricted area after a licensed establishment, licensed truck stop establishment, licensed large truck stop establishment, licensed fraternal establishment, or licensed veterans establishment obtains its original liquor license. For the purpose of this subsection, "school" means an elementary or secondary public school, or an elementary or secondary private school registered with or recognized by the State Board of Education.

Notwithstanding the provisions of this subsection (h), the Board may waive the requirement that a licensed establishment, licensed truck stop establishment, licensed large truck stop establishment, licensed fraternal establishment, or licensed veterans establishment not be located within 1,000 feet from a facility operated by an organization licensee licensed under the Illinois Horse Racing Act of 1975 or the home dock of a riverboat licensed under the Illinois Gambling Act. The Board shall not grant such waiver if there is any common ownership or 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.

- (h-5) Restrictions on licenses in malls. The Board shall not grant an application to become a licensed video gaming location if the Board determines that granting the application would more likely than not cause a terminal operator, individually or in combination with other terminal operators, licensed video gaming location, or other person or entity, to operate the video gaming terminals in 2 or more licensed video gaming locations as a single video gaming operation.
 - (1) In making determinations under this subsection (h-5), factors to be considered by the Board shall include, but not be limited to, the following:
 - (A) the physical aspects of the location;
 - (B) the ownership, control, or management of the location;
 - (C) any arrangements, understandings, or agreements, written or otherwise, among or involving any persons or entities that involve the conducting of any video gaming business or the sharing of costs or revenues; and
 - (D) the manner in which any terminal operator or other related entity markets, advertises, or otherwise describes any location or locations to any other person or entity or to the public.

- (2) The Board shall presume, subject to rebuttal, that 1 2 the granting of an application to become a licensed video 3 gaming location within a mall will cause a terminal operator, individually or in combination with other 4 5 persons or entities, to operate the video gaming terminals in 2 or more licensed video gaming locations as a single 6 7 video gaming operation if the Board determines that 8 granting the license would create a local concentration of 9 licensed video gaming locations.
- For the purposes of this subsection (h-5):
- "Mall" means a building, or adjoining or connected buildings, containing 4 or more separate locations.
- "Video gaming operation" means the conducting of video qaming and all related activities.
- "Location" means a space within a mall containing a separate business, a place for a separate business, or a place subject to a separate leasing arrangement by the mall owner.
- "Licensed video gaming location" means a licensed establishment, licensed fraternal establishment, licensed veterans establishment, licensed truck stop establishment, or licensed large truck stop.
- "Local concentration of licensed video gaming locations"
 means that the combined number of licensed video gaming
 locations within a mall exceed half of the separate locations
 within the mall.
- 26 (i) Undue economic concentration. In addition to

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

- 12 (1) substantially impede or suppress competition among 13 terminal operators;
 - (2) adversely impact the economic stability of the video gaming industry in Illinois; or
- 16 (3) negatively impact the purposes of the Video Gaming
 17 Act.

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

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

- and equally applicable to the activities of any licensee under
- 2 this Act.
- 3 (Source: P.A. 101-31, eff. 6-28-19.)
- 4 (230 ILCS 40/30)

5 Sec. 30. Multiple types of licenses prohibited. A video 6 gaming terminal manufacturer may not be licensed as a video 7 gaming terminal operator or own, manage, or control a licensed establishment, licensed truck stop establishment, licensed 8 licensed 9 large truck stop establishment, fraternal 10 establishment, or licensed veterans establishment, and shall 11 licensed to sell only to persons having a valid be 12 distributor's license or, if the manufacturer also holds a 1.3 valid distributor's license, to sell, distribute, lease, or 14 market to persons having a valid terminal operator's license. 15 A video gaming terminal distributor may not be licensed as a 16 video gaming terminal operator or own, manage, or control a licensed establishment, licensed truck stop establishment, 17 18 licensed large truck stop establishment, licensed fraternal 19 establishment, or licensed veterans establishment, and shall only contract with a licensed terminal operator. A video 20 21 gaming terminal operator may not be licensed as a video gaming 22 terminal manufacturer or distributor or own, manage, or licensed establishment, licensed 23 control a truck stop 24 establishment, licensed large truck stop establishment, 25 licensed fraternal establishment, or licensed

establishment, and shall be licensed only to contract with 1 2 licensed distributors and licensed establishments, licensed 3 truck stop establishments, licensed large truck stop establishments, licensed fraternal establishments, and licensed veterans establishments. An owner or manager of a 5 licensed establishment, licensed truck stop establishment, 6 7 licensed large truck stop establishment, licensed fraternal 8 establishment, or licensed veterans establishment may not be 9 licensed as a video gaming terminal manufacturer, distributor, 10 or operator, and shall only contract with a licensed operator 11 to place and service this equipment. A sales agent and broker 12 may not be licensed as a manufacturer, distributor, supplier, licensed establishment, licensed fraternal establishment, 13 14 licensed veterans establishment, licensed truck stop establishment, or licensed large truck stop establishment. 15 (Source: P.A. 101-31, eff. 6-28-19.) 16

17 (230 ILCS 40/45)

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18 Sec. 45. Issuance of license.

(a) The burden is upon each applicant to demonstrate his suitability for licensure. Each video gaming terminal manufacturer, distributor, supplier, operator, handler, licensed establishment, licensed truck stop establishment, licensed large truck stop establishment, licensed fraternal establishment, and licensed veterans establishment shall be licensed by the Board. The Board may issue or deny a license

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under this Act to any person pursuant to the same criteria set forth in Section 9 of the Illinois Gambling Act.

- (a-5) The Board shall not grant a license to a person who has facilitated, enabled, or participated in the use of coin-operated devices for gambling purposes or who is under the significant influence or control of such a person. For the purposes of this Act, "facilitated, enabled, or participated in the use of coin-operated amusement devices for gambling purposes" means that the person has been convicted of any violation of Article 28 of the Criminal Code of 1961 or the Criminal Code of 2012. If there is pending legal action against a person for any such violation, then the Board shall delay the licensure of that person until the legal action is resolved.
- (b) Each person seeking and possessing a license as a video gaming terminal manufacturer, distributor, supplier, operator, handler, licensed establishment, licensed truck stop establishment, licensed large truck stop establishment, licensed fraternal establishment, or licensed veterans establishment shall submit to a background investigation conducted by the Board with the assistance of the State Police or other law enforcement. To the extent that the corporate applicant structure of the allows, the background investigation shall include any or all of the following as the Board deems appropriate or as provided by rule for each category of licensure: (i) each beneficiary of a trust, (ii)

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- each partner of a partnership, (iii) each member of a limited 1 2 liability company, (iv) each director and officer of a 3 publicly or non-publicly held corporation, (∇) each stockholder of a non-publicly held corporation, (vi) each 5 stockholder of 5% or more of a publicly held corporation, or (vii) each stockholder of 5% or more in a parent or subsidiary 6 7 corporation.
 - (c) Each person seeking and possessing a license as a video gaming terminal manufacturer, distributor, supplier, operator, handler, licensed establishment, licensed truck stop establishment, licensed large truck stop establishment, licensed fraternal establishment, or licensed veterans establishment shall disclose the identity of every person, association, trust, corporation, or limited liability company having a greater than 1% direct or indirect pecuniary interest in the video gaming terminal operation for which the license is sought. If the disclosed entity is a trust, the application shall disclose the names and addresses of the beneficiaries; if a corporation, the names and addresses of all stockholders and directors; if a limited liability company, the names and addresses of all members; or if a partnership, the names and addresses of all partners, both general and limited.
 - (d) No person may be licensed as a video gaming terminal manufacturer, distributor, supplier, operator, handler, licensed establishment, licensed truck stop establishment, licensed fraternal

L	establishment,	or	licensed	veterans	establishment	if	that
2	person has been	fou	nd by the	Board to:			

- (1) have a background, including a criminal record, reputation, habits, social or business associations, or prior activities that pose a threat to the public interests of the State or to the security and integrity of video gaming;
- (2) create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of video gaming; or
- (3) present questionable business practices and financial arrangements incidental to the conduct of video gaming activities.
- (e) Any applicant for any license under this Act has the burden of proving his or her qualifications to the satisfaction of the Board. The Board may adopt rules to establish additional qualifications and requirements to preserve the integrity and security of video gaming in this State.
- (f) A non-refundable application fee shall be paid at the time an application for a license is filed with the Board in the following amounts:
- 23
 (1) Manufacturer
 \$5,000

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 (2) Distributor
 \$5,000

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 (3) Terminal operator
 \$5,000
- 26 (4) Supplier \$2,500

1	(5) Technician \$100
2	(6) Terminal Handler \$100
3	(7) Licensed establishment, licensed truck stop
4	establishment, licensed large truck stop establishment,
5	licensed fraternal establishment, or licensed
6	veterans establishment \$100
7	(8) Sales agent and broker \$100
8	(g) The Board shall establish an annual fee for each
9	license not to exceed the following:
10	(1) Manufacturer \$10,000
11	(2) Distributor \$10,000
12	(3) Terminal operator\$5,000
13	(4) Supplier \$2,000
14	(5) Technician \$100
15	(6) Licensed establishment, licensed truck stop
16	establishment, licensed large truck stop establishment,
17	licensed fraternal establishment, or licensed
18	veterans establishment\$100
19	(7) Video gaming terminal \$100
20	(8) Terminal Handler \$100
21	(9) Sales agent and broker \$100
22	(h) A terminal operator and a licensed establishment,
23	licensed truck stop establishment, licensed large truck stop
24	establishment, licensed fraternal establishment, or licensed
25	veterans establishment shall equally split the fees specified
26	in item (7) of subsection (g).

- 1 (Source: P.A. 100-1152, eff. 12-14-18; 101-31, eff. 6-28-19.)
- 2 Section 99. Effective date. This Act takes effect upon
- 3 becoming law.