

HB5367



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5367

Introduced 2/9/2024, by Rep. Harry Benton

SYNOPSIS AS INTRODUCED:

230 ILCS 40/25

Amends the Video Gaming Act. Provides that a licensed establishment, licensed truck stop establishment, licensed large truck stop establishment, licensed fraternal establishment, or licensed veterans establishment that is located within the designated amount of feet, as designated by the municipality in which the establishment is located, from a school or a place of worship (rather than 100 feet of a school or a place of worship) is ineligible to operate a video gaming terminal.

LRB103 38513 AWJ 68649 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 (d-10) Solicitation of use agreements. A person may not
8 solicit the signing of a use agreement on behalf of a terminal
9 operator or enter into a use agreement as agent of a terminal
10 operator unless that person either has a valid sales agent and
11 broker license issued under this Act or owns, manages, or
12 significantly influences or controls the terminal operator.

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

1 fraternal establishment may operate up to 6 video gaming
2 terminals on its premises at any time. A licensed large truck
3 stop establishment may operate up to 10 video gaming terminals
4 on its premises at any time.

5 (f) (Blank).

6 (g) Financial interest restrictions. As used in this Act,
7 "substantial interest" in a partnership, a corporation, an
8 organization, an association, a business, or a limited
9 liability company means:

10 (A) When, with respect to a sole proprietorship, an
11 individual or his or her spouse owns, operates, manages,
12 or conducts, directly or indirectly, the organization,
13 association, or business, or any part thereof; or

14 (B) When, with respect to a partnership, the
15 individual or his or her spouse shares in any of the
16 profits, or potential profits, of the partnership
17 activities; or

18 (C) When, with respect to a corporation, an individual
19 or his or her spouse is an officer or director, or the
20 individual or his or her spouse is a holder, directly or
21 beneficially, of 5% or more of any class of stock of the
22 corporation; or

23 (D) When, with respect to an organization not covered
24 in (A), (B) or (C) above, an individual or his or her
25 spouse is an officer or manages the business affairs, or
26 the individual or his or her spouse is the owner of or

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

3 (E) When an individual or his or her spouse furnishes
4 5% or more of the capital, whether in cash, goods, or
5 services, for the operation of any business, association,
6 or organization during any calendar year; or

7 (F) When, with respect to a limited liability company,
8 an individual or his or her spouse is a member, or the
9 individual or his or her spouse is a holder, directly or
10 beneficially, of 5% or more of the membership interest of
11 the limited liability company.

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

18 (h) Location restriction. A licensed establishment,
19 licensed truck stop establishment, licensed large truck stop
20 establishment, licensed fraternal establishment, or licensed
21 veterans establishment that is (i) located within 1,000 feet
22 of a facility operated by an organization licensee licensed
23 under the Illinois Horse Racing Act of 1975 or the home dock of
24 a riverboat licensed under the Illinois Gambling Act or (ii)
25 located within the designated amount of feet, as designated by
26 the municipality in which the establishment is located, from

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

19 Notwithstanding the provisions of this subsection (h), the
20 Board may waive the requirement that a licensed establishment,
21 licensed truck stop establishment, licensed large truck stop
22 establishment, licensed fraternal establishment, or licensed
23 veterans establishment not be located within 1,000 feet from a
24 facility operated by an organization licensee licensed under
25 the Illinois Horse Racing Act of 1975 or the home dock of a
26 riverboat licensed under the Illinois Gambling Act. The Board

1 shall not grant such waiver if there is any common ownership or
2 control, shared business activity, or contractual arrangement
3 of any type between the establishment and the organization
4 licensee or owners licensee of a riverboat. The Board shall
5 adopt rules to implement the provisions of this paragraph.

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

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

17 (A) the physical aspects of the location;

18 (B) the ownership, control, or management of the
19 location;

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

25 (D) the manner in which any terminal operator or
26 other related entity markets, advertises, or otherwise

1 describes any location or locations to any other
2 person or entity or to the public.

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

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

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

15 "Video gaming operation" means the conducting of video
16 gaming and all related activities.

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

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

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

1 within the mall.

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

14 (1) substantially impede or suppress competition among
15 terminal operators;

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

18 (3) negatively impact the purposes of the Video Gaming
19 Act.

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

1 determines will cause undue economic concentration.

2 (j) The provisions of the Illinois Antitrust Act are fully
3 and equally applicable to the activities of any licensee under
4 this Act.

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