



Rep. Harry Benton

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10300HB5367ham002

LRB103 38513 CES 71100 a

1 AMENDMENT TO HOUSE BILL 5367

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5367 by replacing  
3 everything after the enacting clause with the following:

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

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

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

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

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

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

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

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

12 (f) (Blank).

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

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

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

25 (C) When, with respect to a corporation, an individual  
26 or his or her spouse is an officer or director, or the

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

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

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

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

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

25 (h) Location restriction. A licensed establishment,  
26 licensed truck stop establishment, licensed large truck stop

1 establishment, licensed fraternal establishment, or licensed  
2 veterans establishment is ineligible to operate a video gaming  
3 terminal if that is (i) located within: (i) 1,000 feet of 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; ~~or~~ (ii)  
7 the distance of up to 100 feet that has been designated by the  
8 municipality in which the establishment is located as a  
9 setback from~~located within 100 feet of a school or~~ a place of  
10 worship as defined in ~~under~~ the Religious Corporation Act; or  
11 (iii) the distance of up to 100 feet that has been designated  
12 by a school board as a setback from a school, ~~is ineligible to~~  
13 ~~operate a video gaming terminal.~~ The location restrictions in  
14 this subsection (h) do not apply if (A) a facility operated by  
15 an organization licensee, a school, or a place of worship  
16 moves to or is established within the restricted area after a  
17 licensed establishment, licensed truck stop establishment,  
18 licensed large truck stop establishment, licensed fraternal  
19 establishment, or licensed veterans establishment becomes  
20 licensed under this Act or (B) a school or place of worship  
21 moves to or is established within the restricted area after a  
22 licensed establishment, licensed truck stop establishment,  
23 licensed large truck stop establishment, licensed fraternal  
24 establishment, or licensed veterans establishment obtains its  
25 original liquor license. For the purpose of this subsection,  
26 "school" means an elementary or secondary public school, or an

1 elementary or secondary private school registered with or  
2 recognized by the State Board of Education.

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

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

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

1 (A) the physical aspects of the location;

2 (B) the ownership, control, or management of the  
3 location;

4 (C) any arrangements, understandings, or  
5 agreements, written or otherwise, among or involving  
6 any persons or entities that involve the conducting of  
7 any video gaming business or the sharing of costs or  
8 revenues; and

9 (D) the manner in which any terminal operator or  
10 other related entity markets, advertises, or otherwise  
11 describes any location or locations to any other  
12 person or entity or to the public.

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

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

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

25 "Video gaming operation" means the conducting of video  
26 gaming and all related activities.



1 "Location" means a space within a mall containing a  
2 separate business, a place for a separate business, or a place  
3 subject to a separate leasing arrangement by the mall owner.

4 "Licensed video gaming location" means a licensed  
5 establishment, licensed fraternal establishment, licensed  
6 veterans establishment, licensed truck stop establishment, or  
7 licensed large truck stop.

8 "Local concentration of licensed video gaming locations"  
9 means that the combined number of licensed video gaming  
10 locations within a mall exceed half of the separate locations  
11 within the mall.

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

24 (1) substantially impede or suppress competition among  
25 terminal operators;

26 (2) adversely impact the economic stability of the

1 video gaming industry in Illinois; or

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

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

12 (j) The provisions of the Illinois Antitrust Act are fully  
13 and equally applicable to the activities of any licensee under  
14 this Act.

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