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HOUSE DRH20308-STxf-36 (02/01)

Short Title: Video Sweepstakes Regulation and Taxation. (Public)

Sponsors: Representative Malone.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE AND TAX ELECTRONIC SWEEPSTAKES.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. Article 10 of Chapter 143B of the General Statutes is amended by
5 adding a new Part to read:

6 "Part 23. Electronic Sweepstakes.

7 "§ 143B-472.150. Citation.

8 This Part shall be known and may be cited as the North Carolina Electronic Sweepstakes
9 Act.

10 "§ 143B-472.151. Definitions.

11 The following definitions apply in this Part:

- 12 (1) Department. – Department of Commerce.
13 (2) Electronic sweepstakes device. – An energy driven device that is connected
14 to a server through a local network that is capable of displaying sweepstakes
15 results on a screen or other mechanism by a sweepstakes entrant.
16 (3) Electronic sweepstakes establishment. – A place of business in which an
17 electronic sweepstakes device is operated.
18 (4) Electronic sweepstakes device operator. – A person licensed under this
19 Article to operate or conduct a sweepstakes.
20 (5) Electronic sweepstakes device vendor. – A person licensed under this Article
21 to supply sweepstakes software to an electronic sweepstakes device operator.
22 (6) Enter or entry. – The act or process by which a person becomes eligible to
23 receive any prize offered in a sweepstakes.
24 (7) Prize. – Any gift, award, gratuity, good, service, credit, or anything else of
25 value that may be transferred to a person, whether possession of the prize is
26 actually transferred, or placed on an account or other record as evidence of
27 the intent to transfer the prize.
28 (9) Sweepstakes. – Any game, advertising scheme or plan, or other promotion
29 that, with or without the purchase of any good or service and without
30 separate consideration, a person may enter to win or become eligible to
31 receive any prize, the determination of which is based upon chance and in
32 which there is a finite pool of entries.
33 (10) Sweepstakes software. – A computer program used by a sweepstakes device
34 operator to conduct a sweepstakes.

35 "§§ 143B-472.152 through 143B-472.154: Reserved.

36 "§ 143B-472.155. Licensure to operate an electronic sweepstakes establishment.



* D R H 2 0 3 0 8 - S T X F - 3 6 *

1 (a) License Required. – No electronic sweepstakes establishment may operate without a
2 valid license issued by the Department in accordance with this Part. Electronic sweepstakes
3 devices may only be operated in a licensed electronic sweepstakes establishment.

4 (b) Application for License. – To obtain a license required by this Part, an applicant
5 shall do all of the following:

6 (1) File an application with the Department and pay an application fee of two
7 hundred fifty dollars (\$250.00). The application must include the person's
8 full name, address, federal employer identification number, and all other
9 identifying information required by the Department.

10 (2) Applicants shall comply with one of the following, and provide proof of
11 such compliance with the application:

12 a. If the applicant for a license is a corporation, the applicant must
13 either be incorporated in this State or be authorized to transact
14 business in this State.

15 b. If the applicant for a license is a limited liability company, the
16 applicant must either be organized in this State or be authorized to
17 transact business in this State.

18 c. If the applicant for a license is a limited partnership, the applicant
19 must either be formed in this State or be authorized to transact
20 business in this State.

21 d. If the applicant for a license is an individual or a general partnership,
22 the applicant must designate an agent for service of process and give
23 the agent's name and address.

24 e. If the person is not an individual, the application must also include
25 the name of a registered agent located in North Carolina.

26 (3) State the number of electronic sweepstakes devices to be placed into
27 operation at the electronic sweepstakes establishment.

28 (4) Attach the certification report from an authorized independent testing
29 laboratory for each electronic sweepstakes device to be placed into operation
30 at the electronic sweepstakes establishment.

31 (5) Provide any information required by G.S. 143B-472.157 for the purpose of a
32 background investigation.

33 (6) The name and location of the electronic sweepstakes establishment.

34 (c) Issuance of License. – The Department shall conduct a background investigation of
35 the applicant prior to issuance of a license. The Department shall deny the application if the
36 Commission determines any of the following:

37 (1) The applicant submitted false or misleading information on its application.

38 (2) The applicant previously held a license issued by the Department that was
39 revoked and has not been restored.

40 (3) The applicant has been convicted of a violation of federal gambling laws, or
41 the gambling laws of any state, within five years of the date of the
42 application.

43 (4) The applicant's background investigation evidenced a pattern of failure to
44 exhibit good character and good standing in the community.

45 (d) Transfer. – A license issued under this Article may not be transferred or assigned.

46 (e) Display. – A license issued under this Article must be displayed conspicuously in
47 the electronic sweepstakes establishment where any electronic sweepstakes device is operated.
48 The license must state the number of devices located at the electronic sweepstakes
49 establishment and any further information required by the Department.

50 (f) Amendments. – A licensee may apply to amend the license to add additional devices
51 on a form to be provided by the Department.

1 (g) Annual Renewal. – Any license issued under this section must be renewed on or
2 before July 1 of each year. A renewal application must contain all of the information required
3 for an initial application under subsection (b) of this section and be accompanied by a renewal
4 in an amount equal to the initial application fee.

5 **"§ 143B-472.156: Reserved.**

6 **"§ 143B-472.157. Investigation of potential electronic sweepstakes device operators.**

7 (a) Investigation. – Potential electronic sweepstakes device operators shall cooperate
8 with the Department in completing any investigation required under this Part, including any
9 appropriate investigation authorizations needed to facilitate these investigations.

10 (b) Information. – The Department shall adopt rules that provide for disclosures of
11 information required to be disclosed under subsection (c) of this section by potential electronic
12 sweepstakes device operators to ensure that the potential electronic sweepstakes device
13 operators provide all the information necessary to allow for a full and complete evaluation by
14 the Department of the competence, integrity, background, and character of the potential
15 electronic sweepstakes device operators. Information shall be disclosed for the following:

16 (1) If the potential electronic sweepstakes device operator is a corporation, the
17 officers, directors, and each stockholder in that corporation; however, in the
18 case of owners of equity securities of a publicly traded corporation, only the
19 names and addresses of those known to the corporation to own beneficially
20 five percent (5%) or more of the securities need be disclosed.

21 (2) If the potential electronic sweepstakes device operator is a trust, the trustee
22 and all persons entitled to receive income or benefits from the trust.

23 (3) If the potential electronic sweepstakes device operator is an association, the
24 members, officers, and directors.

25 (4) If the potential electronic sweepstakes device operator is a partnership or
26 joint venture, all of the general partners, limited partners, or joint venturers.

27 (5) For any potential electronic sweepstakes device operator, any person who
28 can exercise control or authority, or both, on behalf of the potential
29 contractor. For any potential contractor, any person who can exercise control
30 or authority, or both, on behalf of the potential electronic sweepstakes device
31 operator.

32 (c) Disclosures. – For purposes of this subsection, the term "potential electronic
33 sweepstakes device operator" shall include the potential electronic sweepstakes device operator
34 and each of the persons applicable under subsection (b) of this section. At a minimum, the
35 potential electronic sweepstakes device operator required to disclose information for a thorough
36 background investigation under G.S. 18C-151 shall do all of the following:

37 (1) Disclose the potential electronic sweepstakes device operator's name, phone
38 number, and address.

39 (2) Disclose all the states and jurisdictions in which the potential electronic
40 sweepstakes device operator does business and the nature of the business for
41 each state or jurisdiction.

42 (3) Disclose all the states and jurisdictions in which the potential electronic
43 sweepstakes device operator has contracts to supply gaming goods or
44 services, including lottery goods and services, and the nature of the goods or
45 services involved for each state or jurisdiction.

46 (4) Disclose all the states and jurisdictions in which the potential electronic
47 sweepstakes device operator has applied for, has sought renewal of, has
48 received, has been denied, has pending, or has had revoked a lottery or
49 gaming license or permit of any kind or had fines or penalties assessed on a
50 license, permit, contract, or operation and the disposition of such in each
51 such state or jurisdiction. If any lottery or gaming license, permit, or contract

1 has been revoked or has not been renewed or any lottery or gaming license,
2 permit, or application has been either denied or is pending and has remained
3 pending for more than six months, all of the facts and circumstances
4 underlying the failure to receive that license shall be disclosed.

5 (5) Disclose the details of any finding or plea, conviction, or adjudication of
6 guilt in a state or federal court of the potential electronic sweepstakes device
7 operator for any felony or any other criminal offense other than a minor
8 traffic violation.

9 (6) Disclose the details of any bankruptcy, insolvency, reorganization, or
10 corporate or individual purchase or takeover of another corporation,
11 including bonded indebtedness, or any pending litigation of the potential
12 electronic sweepstakes device operator.

13 (7) Make any additional disclosures and information the Department determines
14 to be appropriate for the contract involved.

15 (d) Confidential Information. – All documents compiled by the Department in
16 conducting the investigation of the potential electronic sweepstakes device operators shall be
17 held as confidential information under Chapter 132 of the General Statutes.

18 **"§ 143B-472.158: Reserved.**

19 **"§ 143B-472.159. Authorized independent testing laboratories.**

20 (a) List of Laboratories. – The Department must publish and continuously maintain a
21 list of authorized independent testing laboratories. The Department shall adopt rules to
22 establish a process of becoming an authorized independent testing laboratory.

23 (b) Certification Report. – The authorized independent testing laboratory shall issue a
24 certification report with respect to the electronic sweepstakes devices and all related software
25 and hardware and other systems. The certification report shall contain all of the following
26 information for each electronic sweepstakes device listed in the application:

27 (1) The components of the electronic sweepstakes devices and related systems.

28 (2) The operational characteristics of the electronic sweepstakes devices and
29 related systems.

30 (3) Verification that each sweepstakes proposed to be conducted on each device
31 meets all of the following conditions:

32 a. Selects prizes from a pool of entries where the total number of
33 entries, the number of winning and losing entries, and the number
34 and nature of prizes are finite, predetermined, and established prior to
35 the start of the sweepstakes.

36 b. Predetermines all winning and losing entries prior to the start of the
37 sweepstakes.

38 c. Provides free sweepstakes entries to customers upon purchase of a
39 good or service for which a consideration is paid.

40 d. Provides a method of free entry upon request.

41 e. Does not vary the chance of winning between free entries and entries
42 received as a result of a purchase of a good or service.

43 f. Contains no element of skill so that customer has no ability to alter or
44 affect the outcome or results.

45 (4) Verification that all electronic sweepstakes devices identified in the
46 application are operational and use the same entries for each sweepstakes
47 from a pool of entries hosted on a local server within the electronic
48 sweepstakes establishment.

49 **"§ 143B-472.160: Reserved.**

50 **"§ 143B-472.161. Licensure of electronic sweepstakes device vendor.**

1 (a) License Required. – The Department shall license all electronic sweepstakes device
2 vendors that provide software for electronic sweepstakes devices used in North Carolina. No
3 person, personally or through the person's agent, shall supply sweepstakes software to a
4 sweepstakes device operator without first obtaining a license from the Department.

5 (b) Application. – The application for the electronic sweepstakes device vendor license
6 shall be on forms prescribed by the Department and shall contain at least the following
7 information:

8 (1) The full legal name of the electronic sweepstakes device vendor.

9 (2) The contact information, including address, telephone number, federal tax
10 identification number, and contact person for the electronic sweepstakes
11 device vendor.

12 (3) A certificate or report that meets the requirements of G.S. 143B-472.159.

13 (4) Agreement from the applicant, and fingerprints, to submit to a criminal
14 background check.

15 **"§ 143B-472.162. Regulation of electronic sweepstakes establishments.**

16 (a) Scope. – This Article authorizes only the operation of server-based electronic
17 sweepstakes devices that associate a prize with an entry or entries from a predetermined finite
18 pool of winning and losing entries at the time the sweepstakes is entered.

19 (b) Prohibitions. – A person may not do any the following:

20 (1) Intentionally design, promote, or conduct a sweepstakes in which a specific
21 individual, location, or electronic sweepstakes device may be predetermined
22 as a winner or the sweepstakes software may be manipulated or rigged so as
23 to do either of the following:

24 a. Allocate a winning sweepstakes or any portion thereof to certain
25 lessees, agents, or franchisees.

26 b. Allocate a winning sweepstakes or part thereof to a particular period
27 of the sweepstakes or to a particular geographic area.

28 (2) Willfully remove, disqualify, disallow, modify, or reject any entry other than
29 for failure by the entrant to comply with the rules of the sweepstakes.

30 (3) Willfully fail to award prizes offered other than for failure by the entrant to
31 comply with the rules of the sweepstakes or award or advertise prizes other
32 than those which have been properly announced under this section.

33 (4) Willfully print, publish, or circulate literature or advertisements for a
34 sweepstakes that is false, intentionally deceptive, or intentionally
35 misleading.

36 (5) Knowingly require the participant in a sweepstakes to pay more than fair
37 market value for the item, product, or service which entitles a participant to
38 enter a sweepstakes.

39 (6) Operate a sweepstakes game which does not have a finite number of entries.

40 (7) Fail to offer and provide a free method of entry for any sweepstakes for
41 which the chance of winning is the same as other entries received with the
42 purchase of a product or service.

43 (8) Fail to display the license required under this Article and the sweepstakes
44 software certification in a public and conspicuous place at the location in
45 which the sweepstakes takes place.

46 (c) Signage Requirements. – A licensed electronic sweepstakes device operator must
47 comply with all of the following requirements:

48 (1) Exterior of premises. – Exterior signage shall be limited to the advertisement
49 of the consumer product or consumer service, or both, sold on the premises
50 and that a sweepstakes promotion is offered. No signs shall be posted on the

- 1 exterior of the premises that suggest gambling takes place on the premises or
2 that display any image commonly associated with slot machines.
- 3 (2) Interior premises. – The electronic sweepstakes device operator shall
4 conspicuously post in the interior of the premises the following:
- 5 a. All consumer products or consumer services offered for sale shall be
6 identified by the description and price by conspicuous posting.
- 7 b. Complete rules for all sweepstakes promotions shall be posted at the
8 premises' front or main counter, and a complete copy of the rules,
9 prize tables, and odds of winning shall be made available upon
10 request without cost.
- 11 (3) Before a consumer may reveal an entry with the use of a sweepstakes
12 gaming device, an electronic sweepstakes device operator shall cause to be
13 displayed on the sweepstakes gaming device in at least a font size of 14 the
14 following which shall be affirmatively acknowledged by the consumer:
15 "YOU HAVE ENTERED A SWEEPSTAKES GAME THAT IS
16 PREDETERMINED. YOU CANNOT CHANGE THE OUTCOME BY
17 PLAYING THE GAMES. THIS IS NOT GAMBLING. SWEEPSTAKES
18 ENTRIES CAN BE OPENED IN ANY OF THE GAMES."
- 19 (4) Advertisement. – Any advertising by the electronic sweepstakes device
20 operator shall comply with the following:
- 21 a. All advertising shall include resources for responsible gaming
22 information.
- 23 b. No advertising may intentionally target specific groups or economic
24 classes.
- 25 c. No advertising may be misleading, deceptive, or present any lottery
26 game as a means of relieving any person's financial or personal
27 difficulties.
- 28 d. No advertising may have the primary purpose of inducing persons to
29 participate in the gambling.
- 30 (d) Limitations. – An electronic sweepstakes device operator may not do any of the
31 following:
- 32 (1) Be issued an ABC permit that authorizes the retail sale of alcoholic
33 beverages for consumption on the premises of any location in which a
34 sweepstakes licensed under this Article takes place.
- 35 (2) Permit an individual under 18 years of age to enter or be employed at a
36 facility operated by the sweepstakes gaming device operator for
37 sweepstakes.
- 38 (3) Offer or pay out a single prize with a value of more than ten thousand dollars
39 (\$10,000).
- 40 (4) Cause the sweepstakes results to be located other than on a server that is at
41 the location in which the sweepstakes takes place.
- 42 (e) Supply List of Winners. – Within 60 days after the winners have been determined,
43 an electronic sweepstakes device operator shall provide the Department with a certified list of
44 the names and addresses of all persons who have won prizes with a value of more than six
45 hundred dollars (\$600), the value of the prizes, and the dates the prizes were paid to the winner.
- 46 **"§ 143B-472.163: Reserved.**
- 47 **"§ 143B-472.164. Revocation or suspension of license.**
- 48 (a) Reasons. – The Department may revoke or suspend a license issued under this
49 Article for any of the following reasons:
- 50 (1) The licensee requests the cancellation in writing.

- (2) The Department finds that the licensee has committed one or more of the following acts:
 - a. Made a false statement in an application required by this Article.
 - b. Willfully failed to file a tax return required by Article 2E of Chapter 105 of the General Statutes.
 - c. Willfully failed to pay a tax when due under Article 2E of Chapter 105 of the General Statutes.
 - d. Willfully violated any requirement of this Article.
 - e. Is convicted of any criminal violation of Article 37 of Chapter 14 of the General Statutes.
 - f. Is convicted of a violation of federal gaming laws.

(b) Procedure. – The Department shall follow the administrative hearings process of Article 3 of Chapter 150B of the General Statutes when revoking or suspending a license issued under this Article.

"§ 143B-472.165. Enforcement; penalties.

(a) Enforcement. – The Department and law enforcement agents may investigate and inspect sweepstakes operations in this State and take any other necessary and reasonable action to determine if a violation of any provision of this Article has occurred.

(b) Penalty. – Unless a greater penalty is otherwise provided by law for conduct that is also a violation of this Article, the following penalties apply:

- (1) A person operating an electronic sweepstakes without a license is guilty of a Class 2 misdemeanor, is subject to a minimum fine of twenty-five thousand dollars (\$25,000) and a maximum fine of one hundred thousand dollars (\$100,000), and is barred from obtaining a license under this Article.
- (2) A person who willfully violates any other provision of this Article is subject to a civil penalty with a minimum fine of five hundred dollars (\$500.00) and a maximum fine of ten thousand dollars (\$10,000)."

SECTION 2.(a) Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 2E.

"Electronic Sweepstakes.

"§ 105-113.120. Purpose; definitions.

The taxes imposed in this Article provide revenue for law enforcement and for the use of the State government. The definitions in G.S. 143B-472.151 apply in this Article.

"§ 105-113.121. Excise tax on electronic sweepstakes establishments and devices.

(a) Excise Tax. – An excise tax is levied on each electronic sweepstakes establishment operating in this State as follows:

- (1) A rate per electronic sweepstakes establishment.
- (2) A rate per electronic sweepstakes device.
- (3) A rate on gross receipts.

(b) Rate Per Establishment. – An annual excise tax at the rate of two thousand dollars (\$2,000) is levied on an electronic sweepstakes establishment. The amount due is payable by January 1 of each year. The full amount of the tax applies to an establishment that operates during any portion of a calendar year.

(c) Rate Per Device. – An annual excise tax at the rate of one thousand dollars (\$1,000) is levied on each electronic sweepstakes device operated in an electronic sweepstakes establishment. The amount due is payable by January 1 of each year. The full amount of tax applies to an electronic sweepstakes device that operates during any portion of a calendar year. The Secretary must issue stamps to affix to each electronic sweepstakes device to indicate payment as required by this Article. The stamp must be displayed conspicuously on the electronic sweepstakes device, and it must clearly indicate the year for which the tax is paid.

1 Upon payment of the tax, the Secretary shall issue a stamp for each electronic sweepstakes
2 device for which payment is received.

3 (d) Gross Receipts. – An annual excise tax of four percent (4%) of the taxable gross
4 receipts from operating an electronic sweepstakes device is levied on each electronic
5 sweepstakes establishment. The amount due is payable quarterly or monthly in accordance with
6 the schedule and requirements that apply to payments of sales and use tax under
7 G.S. 105-164.16. A return is due quarterly. A quarterly return covers a calendar quarter and is
8 due by the last day of the month that follows the quarter covered by the return. For purposes of
9 this subsection, taxable gross receipts are the gross receipts derived by the establishment that
10 result in a person's eligibility to operate a sweepstakes device at the establishment to determine
11 whether the person has won a sweepstakes prize, less the amount of any prizes transferred to a
12 sweepstakes entrant. The return must include the taxpayer's gross receipts from operating one
13 or more electronic sweepstakes devices during the reporting period and the prizes awarded
14 during this period to a sweepstakes entrant.

15 (e) Report and Payment. – A person who operates an electronic sweepstakes
16 establishment must report the taxes payable under this section in the form required by the
17 Secretary. The return must include the address where the electronic sweepstakes devices are
18 located and whether the location is within the corporate limits of a municipality.
19 Notwithstanding any other provision of law, the person is not required to give identifying
20 information on the return, and the return is not required to be verified by oath or affirmation.
21 The tax is due when the return is filed. Taxes may be paid and stamps may be issued either by
22 mail or in person.

23 **"§ 105-113.122. Local tax.**

24 (a) Authorization. – A county or city may, by resolution or ordinance respectively,
25 impose an excise tax as allowed under this section on each electronic sweepstakes
26 establishment located in that county or city. A county or city may not impose an excise tax or a
27 license, franchise, or privilege tax on a person operating an electronic sweepstakes
28 establishment except as provided in this section. A tax imposed under this section is limited as
29 provided in subsection (b) of this section.

30 (b) Limitation. – An excise tax allowed under this section may be levied by the county
31 or by the city but not by both the county and the city.

32 (c) Rate Per Establishment. – A county or city may impose an annual excise tax at the
33 rate of one thousand dollars (\$1,000) on each electronic sweepstakes establishment located in
34 that jurisdiction. The amount due is payable by January 1 of each year. The full amount of tax
35 applies to an establishment that operates during any portion of a calendar year.

36 (d) Rate Per Device. – A county or city may impose an annual excise tax at the rate of
37 five hundred dollars (\$500.00) on each electronic sweepstakes device operated in an electronic
38 sweepstakes establishment located in that jurisdiction. The amount due is payable by January 1
39 of each year. The full amount of tax applies to an electronic sweepstakes device operated
40 during any portion of the calendar year.

41 (e) Administration. – Upon adoption of a resolution or ordinance levying the taxes
42 allowed under this section, the governing body of the county or city must immediately deliver a
43 certified copy of the resolution or ordinance to the Secretary. Upon receipt of the document, the
44 Secretary shall collect and administer the tax in the same manner as the taxes imposed under
45 G.S. 105-113.121. The Secretary must distribute the local revenues collected to the county or
46 city for which the taxes are collected by March 31 of each year.

47 (f) Use of Funds. – At least three percent (3%) of the net revenues collected under this
48 section must be distributed to the county sheriff's department or the municipal police
49 department of the taxing jurisdiction. The remainder may be used for any public purpose.

1 (g) Penalty and Collection. – The penalty and collection provisions allowed under
2 Article 9 of this Chapter apply to taxes levied under the authority of this section in the same
3 manner and to the same extent as they apply to taxes levied by the State under this Article.

4 (h) Nature. – The General Assembly finds that the revenue distributed under this
5 section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of
6 the North Carolina Constitution and may not be reduced or withheld by the Governor.

7 **"§ 105-113.123. Use of proceeds.**

8 (a) Distribution. – The Secretary shall distribute the net tax proceeds collected under
9 this Article as provided in this section. The Department may retain six percent (6%) of the net
10 proceeds for its administrative expenses.

11 (b) Law Enforcement. – The Secretary must distribute the proceeds to the General Fund
12 to be used for the purpose of Medicaid and mental health.

13 (c) Local Tax. – If a county or city imposes an excise tax under G.S. 105-113.122, the
14 amount that would be distributed to the county sheriff's department or the municipal police
15 department of the taxing jurisdiction under subsection (b) of this section is waived. This
16 amount reverts to the General Fund and may be used for any public purpose.

17 **"§ 105-113.124. Applicability; illegal activity.**

18 This Article is applicable to any electronic sweepstakes device without regard to any of the
19 following:

20 (1) How the device is activated.

21 (2) How the device is programmed for operation.

22 (3) How the device determines and associates the prize with an entry or entries
23 at the time the sweepstakes is entered."

24 **SECTION 2.(b)** G.S. 153A-146, as amended by S.L. 2015-6, reads as rewritten:

25 "(b) Prohibition. – A county may not impose a license, franchise, or privilege tax on a
26 person engaged in any of the businesses listed in this subsection:

27 (1) Supplying piped natural gas.

28 (2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

29 (3) Providing video programming taxed under G.S. 105-164.4(a)(6).

30 (4) Providing electricity.

31 (5) Operating an electronic sweepstakes establishment under Chapter 18D of the
32 General Statutes except as authorized under G.S. 105-113.124."

33 **SECTION 3.(a)** G.S. 14-306.4 is repealed.

34 **SECTION 3.(b)** G.S. 14-298 reads as rewritten:

35 **"§ 14-298. Seizure of illegal gaming items.**

36 Upon a determination that probable cause exists to believe that any gaming table prohibited
37 to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine,
38 any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1A, or any game
39 terminal described in ~~G.S. 14-306.3(b), or any electronic machine or device using an~~
40 entertaining display in violation of G.S. 14-306.4 G.S. 14-306.3(b) is in the illegal possession or
41 use of any person within the limits of their jurisdiction, all sheriffs and law enforcement
42 officers are authorized to seize the items in accordance with applicable State law. Any law
43 enforcement agency in possession of that item shall retain the item pending a disposition order
44 from a district or superior court judge. Upon application by the law enforcement agency,
45 district attorney, or owner, and after notice and opportunity to be heard by all parties, if the
46 court determines that the item is unlawful to possess, it shall enter an order releasing the item to
47 the law enforcement agency for destruction or for training purposes. If the court determines that
48 the item is not unlawful to possess and will not be used in violation of the law, the item shall be
49 ordered released to its owner upon satisfactory proof of ownership. The foregoing procedures
50 for release shall not apply, however, with respect to an item seized for use as evidence in any
51 criminal action or proceeding until after entry of final judgment."

1 **SECTION 4.** Article 13 of Chapter 143B of the General Statutes is amended by
2 adding a new section to read:

3 "**§ 143B-947. Criminal record checks for the Department of Commerce for electronic**
4 **sweepstakes.**

5 The Department of Public Safety may provide to the Department of Commerce from the
6 State and National Repositories of Criminal Histories the criminal history of any prospective
7 licensee for electronic sweepstakes. The Department of Commerce shall provide to the
8 Department of Public Safety, along with the request, the fingerprints of the prospective licensee
9 a form signed by the prospective licensee consenting to the criminal record check and use of
10 fingerprints and other identifying information required by the State and National Repositories,
11 and any additional information required by the Department of Public Safety. The fingerprints of
12 the prospective licensee shall be forwarded to the State Bureau of Investigation for a search of
13 the State's criminal history record file, and the State Bureau of Investigation shall forward a set
14 of fingerprints to the Federal Bureau of Investigation for a national criminal history record
15 check. The Department of Commerce shall remit any fingerprint information retained by the
16 Department to alcohol law enforcement agents appointed under Article 5 of Chapter 18B of the
17 General Statutes and shall keep all information obtained pursuant to this section confidential.
18 The Department of Public Safety shall charge a reasonable fee only for conducting the checks
19 of the criminal history records authorized by this section."

20 **SECTION 5.** G.S. 18B-500 reads as rewritten:

21 "**§ 18B-500. Alcohol law-enforcement agents.**

22 (a) Appointment. – The Director of the State Bureau of Investigation shall appoint
23 alcohol law-enforcement agents and other enforcement personnel. The Director may also
24 appoint regular employees of the Commission as alcohol law-enforcement agents. Alcohol
25 law-enforcement agents shall be designated as "alcohol law-enforcement agents". Persons
26 serving as reserve alcohol law-enforcement agents are considered employees of the Alcohol
27 Law Enforcement Branch for workers' compensation purposes while performing duties
28 assigned or approved by the Head of the Alcohol Law Enforcement Branch or the Head's
29 designee.

30 (b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
31 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
32 enforcement actions for any criminal offense. The primary responsibility of an agent shall be
33 enforcement of the ~~ABC-ABC, sweepstakes,~~ and lottery laws.

34 (c) Territorial Jurisdiction. – An alcohol law-enforcement agent is a State officer with
35 jurisdiction throughout the State.

36 (d) Service of Commission Orders. – Alcohol law-enforcement agents may serve and
37 execute notices, orders, or demands issued by the Alcoholic Beverage Control Commission or
38 the North Carolina State Lottery Commission or the Department of Commerce for electronic
39 sweepstakes for the surrender of permits or relating to any administrative proceeding. While
40 serving and executing such notices, orders, or demands, alcohol law-enforcement agents shall
41 have all the power and authority possessed by law-enforcement officers when executing an
42 arrest warrant.

43 (e) Discharge. – Alcohol law-enforcement agents are subject to the discharge
44 provisions of G.S. 18B-202.

45 (f) Repealed by Session Laws 1995, c. 507, s. 6.2(a).

46 (g) Shifting of Personnel From One District to Another. – The Head of the Alcohol Law
47 Enforcement Branch, under rules adopted by the Department of Public Safety may, from time
48 to time, shift the forces from one district to another or consolidate more than one district force
49 at any point for special purposes. Whenever an agent of the Alcohol Law Enforcement Section
50 is transferred from one district to another for the convenience of the State or for reasons other
51 than the request of the agent, the Department shall be responsible for transporting the

1 household goods, furniture, and personal apparel of the agent and members of the agent's
2 household."

3 **SECTION 6.** Section 1 of this act becomes effective January 1, 2016, and the
4 Department of Commerce shall adopt temporary rules and procedures to implement the
5 licensure processes no later than September 1, 2015. G.S. 105-113.125, as enacted by Section
6 2(a) of this act, becomes effective January 1, 2016, and applies to an electronic sweepstakes
7 establishment and to an electronic sweepstakes device operated in this State on or after that
8 date. Section 3 of this act becomes effective January 1, 2016. The remainder of this act is
9 effective when it becomes law.