

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE**

BILL NUMBER: Senate Bill 6 (Third Edition)

SHORT TITLE: Increase Regulation of Amusement Devices.

SPONSOR(S):

| FISCAL IMPACT | | | | | |
|---|--------------------------|--------------------------|----------------------------------|--------------------------|--------------------------|
| | Yes (X) | No () | No Estimate Available () | | |
| | <u>FY 2004-05</u> | <u>FY 2005-06</u> | <u>FY 2006-07</u> | <u>FY 2007-08</u> | <u>FY 2008-09</u> |
| REVENUES | | | | | |
| Registration Fees | \$2,268,900 | \$2,268,900 | \$2,268,900 | \$2,268,900 | \$2,268,900 |
| Excise Tax | Unable to determine | | | | |
| EXPENDITURES | | | | | |
| AOC | Unable to determine | | | | |
| Correction | Unable to determine | | | | |
| ALE | \$2,260,547 | \$1,274,014 | \$1,274,014 | \$1,274,014 | \$1,274,014 |
| DOR | Unable to determine | | | | |
| POSITIONS: (cumulative) | | | | | |
| ALE | 24 | 24 | 24 | 24 | 24 |
| PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Administrative Office of the Courts; Correction; Crime Control and Public Safety; Revenue | | | | | |
| EFFECTIVE DATE: October 1, 2004 | | | | | |

BILL SUMMARY: Amends GS 14-306.1 to permit warehousing of video gaming machines in North Carolina, to preempt any local government from adopting more restrictive ordinances regulating video gaming devices, to transfer the responsibility for handling registration of the devices from sheriffs to the Alcohol Law Enforcement (ALE), to specify what must be included in the registration, to require all machines to have serial numbers permanently affixed to the machine, to prohibit the use of words jackpot, casino, or Las Vegas on the device or in sound systems in the devices, and to provide that ban on ownership or possession of devices upon conviction under GS

14-309 applies to convictions under subsection (b) of that statute. Amends GS 14-309 to make it a Class G felony to own or possess device that was not eligible for registration on Oct. 1, 2000. Amends GS 14-306 to require specified machines to be equipped with hand count feature that permits reconciliation of numbers of plays and number of paper coupons issued. Adds new annual registration fee of \$300 per machine; funds to be used by ALE to support enforcement and registration program. Establishes an excise tax of \$5000 per machine for illegal machines. Act becomes effective October 1, 2004.

ASSUMPTIONS AND METHODOLOGY: Current law allows only those video gaming machines that were lawfully in operation in the state on or before June 30, 2000. Owners of these machines must report on a quarterly basis to the Department of Revenue (DOR) the “gross receipts from video gaming machines, itemized by each machine, the total number of machines at each location, and the total value of prizes and merchandise awarded to players of each machine at a location.” Section 2 of the bill establishes an annual \$300 registration fee on each video gaming machine. As of December 31, 2002, (the most recent date for which DOR has usable data), there were 9,025 video gaming machines in service at 4,063 locations. Excluded from this total are about 1,000 machines that were identified as “out of service” for any reason. To estimate the impact of the proposed bill, it is assumed that operators would dispose of those machines that are either out of service or have gross annual receipts of less than \$300. As a result, an estimated 7,563 video gaming machines would be registered in FY 2004-05 with a projected \$2,268,900 in registration fees collected.

| | Number of Machines |
|--|---------------------------|
| Total Machines in Service | 9,025 |
| Machines reported as having some gross receipts | 8,228 |
| Machines reported as having annual gross receipts greater than \$300 | 7,563 |

Administrative Office of the Courts

Several provisions add requirements for owners of gaming machines. Violation of new requirements would be subject to the general criminal penalties in G.S. 7A-309 (which applies to violations of G.S. 14-304 through -309, and includes both misdemeanor and felony punishments). The additional opportunities to violate the regulations of gaming machines can be expected to translate into some additional charges, but AOC has no data from which to make an estimate.

Section 4 of the bill amends G.S. 14-309 making it a Class G felony to knowingly own or possess a machine that was not lawfully under G.S. 14-306.1(a)(1). Such an offense is now a Class 1 misdemeanor for the first offense, a Class I felony for a second offense, or a Class H felony for a third or subsequent offense. AOC data for calendar 2003 reveal one Class 1 misdemeanor under G.S. 7A-306.1(a). Unless the number of charges increases from enhanced enforcement or some other reason, AOC would not expect a major impact from this provision of the bill standing alone. Section 6 of the bill enacts a new Article levying a tax on illegal video gaming machines. Information gathered pursuant to the new Article is confidential. (For example, a person who has

an illegal gaming machine must file a report for payment of the tax, but the person is not required to give his or her name, social security number or other identifying information; stamps are issued that may be affixed to the illegal machine, proving payment of the tax.) It is a misdemeanor for any person to release information obtained under the Article. Presumably, the custodians of such information are state employees, who would comply with the non-disclosure, and AOC would expect relatively few charges. AOC is unable to estimate how many new criminal charges or civil actions might arise from failures to pay the tax.

AOC has no data from which to estimate the impact of this bill. However increased workload of the district court judges, superior court judges, district attorneys, clerks, and court reporters would be expected. There would also be an increase in expenditures for jury fees and indigent defense. AOC staff indicated that the court system is under funded, overstretched, and in need of significant additional resources to manage the demands of the existing workload. Therefore any impact on the courts is substantial under current circumstances and the court system cannot absorb any additional workload without additional resources.

Department of Correction

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate its impact on the prison population. It is not known how many offenders might be convicted and sentenced for the proposed offense. If, for example, there were two Class G convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year. The daily operating cost per inmate ranges from \$46.23 for minimum security to \$74.56 for close security, with an average cost for all custody levels of \$57.92. Those offenders not given active sentences (58%) would be supervised by the Division of Community Corrections at a cost of \$8.40 to \$10.06 per offender per day.

Every Class 1 misdemeanor conviction has the potential to impact the Department of Correction through probation supervision, payments to counties for jailed offenders, or, for offenders with a prior record, a short prison term. Class 1 misdemeanants may be sentenced to community, intermediate, or active punishments. Depending on Prior Record Level and sanction, the potential impact on DOC ranges from \$0 to \$5,520 per offender. Based on prior-year data, the most likely punishment is supervised or unsupervised probation. Supervised probation, without community service, would cost approximately \$639 per offender per year. About 17 percent of Class 1 misdemeanants received active sentences. The majority of these sentences are less than 90 days, which means that the offenders serve their time in a county jail. The Department of Correction reimburses the county at a rate of \$18 per offender per day for sentences between 30 and 90 days. Sentences of more than 90 days are served in prison at a cost of \$46 per offender per day. For offenders sentenced to unsupervised probation, ordered only to pay fines or restitution, or sentenced to active time of less than 30 days, there is no impact on the Department of Correction.

Department of Crime Control and Public Safety, Alcohol Law Enforcement Division

Under the proposed bill, all video gaming machines shall be registered with the Alcohol Law Enforcement (ALE) Division in the Department of Crime Control and Public Safety no later than

October 1, 2004. The proceeds from the annual registration of \$300 per machine will be used to cover ALE's costs of registration, monitoring, and other enforcement activities. The bill requires ALE to develop a registration process using either a standardized registration form or an on-line process. ALE would have primary responsibility for enforcement of the registration requirements, including on site inspection of video gaming machines. ALE indicated that the following staff and other resources would be needed to implement the proposed bill in the first year:

| | |
|--|--------------------|
| 20 New Agent Positions | \$1,809,060 |
| BLET Training | \$ 134,370 |
| Reclassification of existing agents to supervisory positions | \$ 153,287 |
| Administrative Assistant II | \$ 35,878 |
| Office Assistant IV (2 positions) | \$ 56,113 |
| Accounting Technician | \$ 28,056 |
| Computer equipment, desks, etc for support staff | \$ 18,783 |
| Specialized Training | \$ 25,000 |
| Total | \$2,260,547 |

Of this amount, \$986,533 is non-recurring cost associated with training, vehicles, equipment, etc,

Department of Revenue

Section 6 of the bill establishes a \$5,000 excise tax, to be collected by the Department of Revenue (DOR), on all illegal video gaming machines. There is no data available from which to estimate the number of illegal machines that would be subject to this tax or the potential cost to DOR to collect this tax. The bill does allow DOR to deduct from the excise taxes collected, the expenses incurred in performing the duties imposed by the bill.

SOURCES OF DATA: Administrative Office of the Courts; Department of Crime Control and Public Safety; NC Sentencing and Policy Advisory Commission; and the Department of Revenue

TECHNICAL CONSIDERATIONS: None

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Signed Copy Located in the NCGA Principal Clerk's Offices