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Effective: December 1, 2010West's North Carolina General Statutes Annotated [Currentness](#)

Chapter 14. Criminal Law

Subchapter XI. General Police Regulations

▣ [Article 37. Lotteries, Gaming, Bingo and Raffles \(Refs & Annos\)](#)▣ [Part 1. Lotteries and Gaming \(Refs & Annos\)](#)**→ → § 14-306. Slot machine or device defined**

(a) Any machine, apparatus or device is a slot machine or device within the provisions of [G.S. 14-296](#) through [14-309](#), if it is one that is adapted, or may be readily converted into one that is adapted, for use in such a way that, as a result of the payment of any piece of money or coin or token or any credit card, debit card, prepaid card, or any other method that requires payment to activate play, whether directly into the slot machine or device or resulting in remote activation, such machine or device is caused to operate or may be operated in such manner that the user may receive or become entitled to receive any piece of money, credit, allowance or thing of value, or any check, slug, token or memorandum, whether of value or otherwise, or which may be exchanged for any money, credit, allowance or any thing of value, or which may be given in trade, or the user may secure additional chances or rights to use such machine, apparatus or device; or any other machine or device designed and manufactured primarily for use in connection with gambling and which machine or device is classified by the United States as requiring a federal gaming device tax stamp under applicable provisions of the Internal Revenue Code. This definition is intended to embrace all slot machines and similar devices except slot machines in which is kept any article to be purchased by depositing any coin or thing of value, and for which may be had any article of merchandise which makes the same return or returns of equal value each and every time it is operated, or any machine wherein may be seen any pictures or heard any music by depositing therein any coin or thing of value, or any slot weighing machine or any machine for making stencils by the use of contrivances operated by depositing in the machine any coin or thing of value, or any lock operated by slot wherein money or thing of value is to be deposited, where such slot machines make the same return or returns of equal value each and every time the same is operated and does not at any time it is operated offer the user or operator any additional money, credit, allowance, or thing of value, or check, slug, token or memorandum, whether of value or otherwise, which may be exchanged for money, credit, allowance or thing of value or which may be given in trade or by which the user may secure additional chances or rights to use such machine, apparatus, or device, or in the playing of which the operator does not have a chance to make varying scores or tallies.

(b) The definition contained in subsection (a) of this section and [G.S. 14-296](#), [14-301](#), [14-302](#), and [14-305](#) does not include coin-operated machines, video games, pinball machines, and other computer, electronic or mechanical devices that are operated and played for amusement, that **involve the use of skill or dexterity** to solve problems or tasks or to make varying scores or tallies and that:

- (1) Do not emit, issue, display, print out, or otherwise record any receipt, paper, coupon, token, or other form of record which is capable of being redeemed, exchanged, or repurchased for cash, cash equivalent, or prizes, or award free replays; or
- (2) In actual operation, limit to eight the number of accumulated credits or replays that may be played at one time and which may award free replays or paper coupons that may be exchanged for prizes or merchandise with a value not exceeding ten dollars (\$10.00), but may not be exchanged or converted to money.

(c) Any video machine, the operation of which is made lawful by subsection (b)(2) of this section, shall have affixed to it in view of the player a sticker informing that person that it is a criminal offense with the potential of imprisonment to pay more than that which is allowed by law. In addition, if the machine has an attract chip which allows programming, the static display shall contain the same message.

(d) The exception in subsection (b)(2) of this section does not apply to any machine that pays off in cash. The exemption in subsection (b)(2) of this section does not apply where the prizes, merchandise, credits, or replays are (i) repurchased for cash or rewarded by cash, (ii) exchanged for merchandise of a value of more than ten dollars (\$10.00), or (iii) where there is a cash payout of any kind, by the person operating or managing the machine or the premises, or any agent or employee of that person. It is also a criminal offense, punishable under [G.S. 14-309](#), for the person making the unlawful payout to the player of the machine to violate this section, in addition to any other person whose conduct may be unlawful.

CREDIT(S)

Amended by Laws 1967, c. 1219; Laws 1977, c. 837; Laws 1985, c. 644, § 1; Laws 1989, c. 406, § 1; [Laws 1993, c. 366, § 1, eff. Dec. 1, 1993](#); [S.L. 2000-151, § 4](#); [S.L. 2010-103, § 3, eff. Dec. 1, 2010](#).

HISTORICAL AND STATUTORY NOTES

Laws 1993, c. 366, § 4, provides:

“This act becomes effective December 1, 1993, and applies to offenses occurring on or after that date.”

2000 Legislation

S.L. 2000-151, § 4, rewrote the section, which prior thereto read:

“Any machine, apparatus or device is a slot machine or device within the provisions of [G.S. 14-296](#) through [14-309](#), if it is one that is adapted, or may be readily converted into one that is adapted, for use in such a way that, as a result of the insertion of any piece of money or coin or other object, such machine or device is caused to operate or may be operated in such manner that the user may receive or become entitled to receive any piece of money, credit, allowance

or thing of value, or any check, slug, token or memorandum, whether of value or otherwise, or which may be exchanged for any money, credit, allowance or any thing of value, or which may be given in trade, or the user may secure additional chances or rights to use such machine, apparatus or device; or any other machine or device designed and manufactured primarily for use in connection with gambling and which machine or device is classified by the United States as requiring a federal gaming device tax stamp under applicable provisions of the Internal Revenue Code. This definition is intended to embrace all slot machines and similar devices except slot machines in which is kept any article to be purchased by depositing any coin or thing of value, and for which may be had any article of merchandise which makes the same return or returns of equal value each and every time it is operated, or any machine wherein may be seen any pictures or heard any music by depositing therein any coin or thing of value, or any slot weighing machine or any machine for making stencils by the use of contrivances operated by depositing in the machine any coin or thing of value, or any lock operated by slot wherein money or thing of value is to be deposited, where such slot machines make the same return or returns of equal value each and every time the same is operated and does not at any time it is operated offer the user or operator any additional money, credit, allowance, or thing of value, or check, slug, token or memorandum, whether of value or otherwise, which may be exchanged for money, credit, allowance or thing of value or which may be given in trade or by which the user may secure additional chances or rights to use such machine, apparatus, or device, or in the playing of which the operator does not have a chance to make varying scores or tallies.

“The definition contained in the first paragraph of this section and [G.S. 14-296](#), [14-301](#), [14-302](#), and [14-305](#) does not include coin-operated machines, video games, and devices used for amusement. Included within this exception are pinball machines, video games, and other mechanical devices that involve the use of skill or dexterity to make varying scores or tallies and which, in actual operation, limit to eight the number of accumulated credits or replays that may be played at one time and which may award free replays or paper coupons that may be exchanged for prizes or merchandise with a value not exceeding ten dollars (\$10.00), but may not be exchanged or converted to money.”

S.L. 2000-151, § 8, provides:

“Section 8. This act becomes effective October 1, 2000, except that:

“(1) [G.S. 14-306.1\(a\)](#), (c), (e), (i), (j), and (l) are effective when this act becomes law. Section 4 of this act, other than subsections (c) and (d), are effective when this act becomes law. [G.S. 14-306.1\(h\)](#) becomes effective 30 days after this bill becomes law.

“(2) Section 3 of this act and [G.S. 14-306\(c\)](#) and (d) as added by Section 4 of this act become effective with respect to offenses committed on or after October 1, 2000, except as to a violation of [G.S. 14-306.1\(a\)](#), they are effective when they become law.

“(3) Sections 5 through 8 of this act are effective when they become law.

“(4) The first report under [G.S. 14-306.1\(e1\)](#) is for the first quarter of calendar year 2001, due April 15, 2001.”

2010 Legislation

S.L. 2010-103, § 3, in subsec. (a), in the first sentence, substituted “payment” for “insertion”, substituted “token” for “other object”, and inserted “or any credit card, debit card, prepaid card, or any other method that requires payment to activate play, whether directly into the slot machine or device or resulting in remote activation,”.

S.L. 2010-103, §§ 5 and 6, provide:

“Section 5. Nothing in this act shall be construed to make lawful any machine or device that is unlawful under any other provision of law. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.”

“Section 6. This act becomes effective December 1, 2010, and applies to offenses committed on or after that date.”

ADMINISTRATIVE DECISIONS CITED

ABC Commission v. Acme Retail, Inc. T/A Handy Pantry, 01 ABC 1325.

Alcoholic Beverage Control Commission v. Falls, 04 ABC 0341.

LIBRARY REFERENCES

[Gaming](#)  68(3).

Westlaw Key Number Search: 188k68(3).

[C.J.S. Gaming](#) §§ 89, 97 to 99.

RESEARCH REFERENCES

Encyclopedias

[Strong's N.C. Index 4th, Gambling § 2](#), Validity of Contracts Relating to Gambling.

[Strong's N.C. Index 4th, Gambling § 9](#), Faro Banks and Tables; Other Gaming Tables--Seizure of Gaming Tables by Law Enforcement Officers.

[Strong's N.C. Index 4th, Gambling § 37](#), Generally; Definition of Illegal Devices.

[Strong's N.C. Index 4th, Gambling § 38](#), Possession or Use.

[Strong's N.C. Index 4th, Gambling § 39](#), Allowing Devices on Premises.

[Strong's N.C. Index 4th, Gambling § 40](#), Defense to Possession; Antique Slot Machines.

[Strong's N.C. Index 4th, Gambling § 41](#), Manufacturing, Transferring, or Permitting Operation of Illegal Devices.

[Strong's N.C. Index 4th, Gambling § 44](#), Generally; Definition.

[Strong's N.C. Index 4th, Gambling § 47](#), Unlawful Uses; Illegality.

[Strong's N.C. Index 4th, Intoxicating Liquor § 29](#), Unlawful Conduct on Licensed Retail Premises; Failure to Provide Supervision.

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1. Validity

Definition of “slot machine” in statute proscribing possession of certain slot machines is not unconstitutionally vague despite broad description and contention that exception for “coin-operated machines, video games, and devices used for amusement” is ambiguous. [State v. Crabtree, 1997, 126 N.C.App. 729, 487 S.E.2d 575. Constitutional Law ¶4509\(13\); Gaming ¶63\(1\)](#)

2. In general

The ownership, sale, demise, or transportation of certain slot machines is prohibited by law, but possession, use, and operation of others, under license, is permitted. [State v. Calcutt, 1941, 15 S.E.2d 9, 219 N.C. 545. Gaming ¶68\(3\)](#)

3. Complementary legislation

Where first count of indictment in language of 1937 statute charged ownership, sale, lease, and transportation of certain slot machines and devices prohibited by law, and second count in language of 1923 statute charged operation and possession of certain slot machines in violation of law, the counts could stand as charging separate and distinct offenses, and separate judgments could be entered thereon, since the two enactments were more nearly complementary than inconsistent and the 1937 statute did not repeal the 1923 statute. [State v. Calcutt, 1941, 15 S.E.2d 9, 219 N.C. 545. Criminal Law ¶29\(5.5\); Indictment And Information ¶130](#)

4. Thing of value

Under statute prohibiting operation of slot machines, the thing played for and received is actually the right to operate the machine an additional time or times and not the token which represents that value. [State v. Abbott, 1940, 11 S.E.2d 539, 218 N.C. 470. Gaming ☞68\(3\)](#)

5. Video poker

Game of video poker did not depend upon skill or dexterity of player within meaning of exception to gambling statute and, thus, video poker game was illegal slot machine under statute; although knowledge of law of probabilities lent element of skill to video poker, video poker lacked skill elements of psychology and bluffing inherent in poker played against other individuals, and in long-run video poker eliminated skill element since game allowed only predetermined number of winning hands. [Collins Coin Music Co. of North Carolina, Inc. v. North Carolina Alcoholic Beverage Control Com'n, 1994, 117 N.C.App. 405, 451 S.E.2d 306, review denied 340 N.C. 110, 456 S.E.2d 312. Gaming ☞68\(3\)](#)

Since video poker game could pay out more than ten dollars in one play, video poker game did not fall within exception to statute prohibiting illegal slot machines; fact that coupons paid by machine could not be exchanged for prizes with value exceeding ten dollars did not change fact that player could win up to \$500 on single hand. [Collins Coin Music Co. of North Carolina, Inc. v. North Carolina Alcoholic Beverage Control Com'n, 1994, 117 N.C.App. 405, 451 S.E.2d 306, review denied 340 N.C. 110, 456 S.E.2d 312. Gaming ☞68\(3\)](#)

Memorandum from director of Alcohol Law Enforcement Division of State Department of Crime Control and Public Safety (ALE), setting forth interpretation that “video poker” and similar video machines violated gambling law, did not constitute rule requiring compliance with procedures of Administrative Procedure Act (APA) before it could be adopted; ALE was law enforcement agency, and its internal guidelines for enforcement of criminal law did not fall within purview of APA. [Ford v. State, Dept. of Crime Control and Public Safety, Div. of Alcohol Law Enforcement, 1994, 115 N.C.App. 556, 445 S.E.2d 425. Gaming ☞68\(3\)](#)

Whether a coin operated video game falls within the statutory definition of illegal slot machines or one of the exemptions must be determined on a case by case basis. It is possible that the mechanical or operating features of some video poker machines, including the nature of the game played or the ability to artificially limit the percentage of winning hands, would compel the conclusion that a particular machine was not used for amusement or did not involve the use of skill. In that event, the machine would not fall within the statutory exemption. Op.Atty.Gen. Boney, Dec. 15, 1993.

Video poker machines are not illegal that involve the use of some skill and otherwise comply with the law. Op.Atty.Gen., Creech, Nov. 5, 1997.

6. Instructions

In prosecution for possession of illegal slot machines, instruction that “illegal slot machine is one that is designed, not to produce for or give to the person who places a coin or money or the representative of either in it, the same return in market value each and every time such machine is operated” was a proper summation of the statutory definition. [State v. Crabtree, 1997, 126 N.C.App. 729, 487 S.E.2d 575. Gaming ↪ 102](#)

7. Destruction of gambling equipment

Superior court was without jurisdiction to hear motion for order directing police to destroy seized gambling equipment where defendant charged in warrants had never been brought to trial and there was no proceeding in superior court regarding equipment in question. [State v. Campbell, 1986, 339 S.E.2d 674, 79 N.C.App. 468. Searches And Seizures ↪ 84](#)

Motions for destruction of gambling equipment are required to be filed in a pending action. [State v. Campbell, 1986, 339 S.E.2d 674, 79 N.C.App. 468. Searches And Seizures ↪ 84](#)

N.C.G.S.A. § 14-306, NC ST § 14-306

The statutes and Constitution are current through S.L. 2013-257 of the 2013 Regular Session of the General Assembly.

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