



# HOUSE BILL 954: Video Lottery Entertainment.

2021-2022 General Assembly

<b>Committee:</b>	House Commerce. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	August 31, 2021
<b>Introduced by:</b>	Reps. Warren, Moffitt, Hunter, Wray	<b>Prepared by:</b>	Nicholas Giddings and Erika Churchill
<b>Analysis of:</b>	PCS to First Edition H954-CSSTxf-27		Staff Attorneys

**OVERVIEW:** *The PCS to House Bill 954 would do the following:*

- *Authorize and regulate video lottery terminals in the State. The North Carolina State Lottery Commission would be tasked with issuing licenses and regulating the play of video lottery terminals.*
- *Create the Community College Scholarship Loan Program to provide scholarship forgivable loans to North Carolina residents to attend community college. The State Education Assistance Authority would be responsible for administering the Program.*

**CURRENT LAW:**

**Video Gaming Machines (G.S. 14-306.1A):** It is illegal to operate, allow to be operated, place into operation, or keep in your possession for the purpose of operation, a video gaming machine. The definition of a "video gaming machine" includes (i) slot machines, and (ii) other forms of electrical, mechanical, or computer games. It is a video machine that requires any method of payment to activate the game. Examples of video games are video poker (or any other kind of card game), video bingo, or any video game based on the random matching of different words, numbers, or symbols, and that is not dependent on the player's skill or dexterity. The statute specifically does not allow the exception to the slot machine law that allows for the pay-out of merchandise of a value of \$10 or less.

**"Sweepstakes" machines (G.S. 14-306.4):** It is unlawful for any person to operate, or place into operation, an electronic machine or device to do either of the following:

- Conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize.
- Promote a sweepstakes that is conducted through the use of an entertaining display, including the entry process or the reveal of a prize.

Each violation is a separate offense, and punishment is on a sliding scale:

- First offense – Class 1 misdemeanor.
- Second offense – Class H felony.
- Third or subsequent offense – Class G felony.

The statute does not address possession of the electronic machine or device.

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**BILL ANALYSIS:** The PCS to House Bill 954 would create Article 9 of Chapter 18C to authorize the play of video lottery terminals (VLTs) in this State. The North Carolina State Lottery Commission (Commission) would be required to adopt rules in accordance with Article 2 of Chapter 150B of the General Statutes to determine play of video lottery games and issue licenses to qualifying parties and permits for qualifying VLTs. A VLT would be defined as any electronic computerized video game machine that, upon the insertion of cash or a lottery share, is available to play a video lottery game authorized by the Commission, and which uses a video display and microprocessors in which, by chance, the player may receive free games or credits that can be redeemed for cash. The term would not include a machine that directly dispenses coins, cash, or tokens.

## Licenses and Permits

Every VLT placed in service would be required to have a VLT permit issued by the Commission affixed to it. The VLT permit represents that the VLT has been registered, inspected, and approved for operation in the State. Only authorized Commission personnel would be allowed to affix or remove a VLT permit. The Commission would issue VLT permits annually and would adopt rules establishing the schedule for issuing and affixing permits. Any terminal or machine that does not display the VLT permit as required would be illegal and subject to confiscation by any law enforcement officer.

The Commission would also be responsible for issuing licenses for the following:

- Manufacturer – A person who manufactures, assembles, services, or produces VLTs or associated equipment in this State. The Commission should strive to always have no less than 5 licensed manufacturers in the State.
- Operator – A person who owns, leases, or otherwise controls a VLT for which a VLT permit has been issued by the Commission and places those VLTs or associated equipment for public use in the State. Operators may only purchase, lease, or otherwise obtain VLTs from licensed manufacturers and contract with licensed video lottery merchants for placement of VLTs for play by the public. The Commission should strive to always have no less than 12 licensed operators in the State.
- Video Lottery Merchant – A person with whom an operator has contracted to allow placement of VLTs for public play and redemption of shares of video lottery games. A video lottery merchant must hold an active off-site ABC permit or an active on-site ABC permit. No video lottery merchant may be engaged solely in the business of placing VLTs for play by the public in this State. Each video lottery merchant may operate up to 6 VLTs per location with allowance for up to an additional 4 VLTs with approval of the Commission.

All license applicants must meet certain criteria to be licensed, including, among other requirements, no felony convictions within the previous 10 years, being at least 21 years of age, and being current on all applicable tax filings with the State. Operators must also meet at least one of the following criteria: (1) have been a resident of the State for at least 3 years prior to applying, (2) maintained a physical office location in the same jurisdiction for at least 3 years prior to applying related to the lawful VLT industry, or (3) have conducted business in this State in the amusement game industry for at least 3 years prior to applying and be qualified to do business in this State. The applicant, as well as each partner, director, officer, and certain shareholders of 5% or more, must submit to a background investigation. All applicants would be required to submit to a criminal and financial record check.

The Commission would be authorized to charge license applicants, including renewals, up to \$250 per application, plus the cost of criminal and financial record checks. All licenses would be renewable annually and may be transferred or assigned, provided the new license holder submits an application and

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associated fee and is approved by the Commission. Video lottery merchant licensees would be prohibited from holding a manufacturing license or an operator license. The Commission may, for cause, revoke any VLT-related license.

## VLT Operation

All VLTs must be permitted by the Commission and the permit must be affixed to the VLT. No VLT would be permitted unless the game software was certified by an independent testing laboratory. The game software, and any other component required by the Commission, for all VLTs must be submitted by the manufacturer to an independent testing laboratory to test for compliance with Commission rules and regulations, which must include compatibility with the central monitoring system. The Commission would also be responsible for approving all video games played on a VLT.

The central monitoring system would maintain on a real time basis the financial, integrity, and security controls on VLTs and associated equipment and provide administrative services for its operation. The central monitoring system must be linked by a communications network through which all VLTs must connect to a single point of commerce for the purpose of monitoring and reading VLT activities, which includes compliance of play and revenues to the State. The central monitoring system would not monitor or read personal or financial information concerning patrons of the VLTs.

The Commission would be required to contract for a central monitoring system from a supplier of central monitoring systems, which may be a manufacturer if the Commission is satisfied that manufacturer will not use any knowledge or control of the central monitoring system to advantage that manufacturer, an operator associated with that manufacturer, or a video lottery merchant with whom that manufacturer's video lottery terminals are placed. The Commission may also contract for the administration of the central monitoring system, however, the Commission would be responsible for overseeing that administration.

The Commission would be required to establish the maximum amount a patron could play on a single wager and all VLTs would be required to adhere to this limit. The Commission must also establish the manner in which VLT playing odds are calculated and posted. Prizes under \$600 may be claimed from any licensed video lottery merchant or the Commission. Prizes of \$600 or more must be claimed directly from the Commission.

## Revenues and Taxes

When adopting rules regarding the play of video lottery games in the State, the Commission would be required to address the procedures for monitoring, collecting, and remitting net machine revenue from the video lottery games. Net machine revenues are gross revenues of the machine minus prizes paid out. The rules adopted by the Commission must be in conformity with the following:

- No less than 32% of the total net machine revenues must be transferred to the newly created North Carolina Video Lottery Fund.
- No more than 8% of total annual net machine revenues may be allocated for administrative expenses of the Commission, including the central monitoring system and enforcement of the Article by the Department of Public Safety, Alcohol Law Enforcement Division (ALE). Any unused revenue would be transferred to the North Carolina Video Lottery Fund.
- 35% of net machine revenues would be allocated to operators and 25% would be allocated to video lottery merchants.

The PCS would create the North Carolina Video Lottery Fund (Fund) which would consist of the statutory transfers of net machine revenues as well as interest earned on those transferred funds. The General Assembly would be required to appropriate the money from the Fund; however, the General Assembly

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would be required to appropriate an amount to the State Education Assistance Authority for each fiscal year in an amount sufficient to fund scholarship forgivable loans for eligible students under the Community College Scholarship Loan Program. The General Assembly would also be required to appropriate from the Fund a sum of \$2,000,000 annually to the following institutions for the purpose of improving graduation rates and student success or sustainability of the institution:

- Elizabeth City State University.
- Fayetteville State University.
- North Carolina Agricultural and Technical State University.
- North Carolina Central University.
- Winston-Salem State University.

The Commission would be authorized to use sufficient funds from the North Carolina State Lottery Fund to cover initial operating expenses of the Commission to implement the newly created Article, except that the total amount borrowed by the Commission may not exceed \$10,000,000. The Commission would be required to repay any funds used out of the North Carolina State Lottery Fund within 24 months after the effective date of the act.

Licensees would also be required to remit an annual privilege tax to the Department of Revenue in the following amounts:

- Manufacturers – \$50,000.
- Operators – \$25,000 plus \$150 per VLT licensed to the operator.
- Video Lottery Merchants – \$1,000 plus \$150 per VLT in each retail location.

## **Enforcement and Criminal Penalties**

The Commission would have sole administrative enforcement authority under the newly created Article, including inspections of VLTs. The Commission, as well as ALE, would be authorized to inspect an establishment of a licensed video lottery merchant, operator, or manufacturer. The inspection may include the examination of records, equipment, and proceeds related to the operation of video lottery games. ALE must report to the Commission on the results of any inspection.

The following criminal penalties would be established under the newly created Article:

- Any person who sells a share for play of a VLT to a person under the age of 21 or any person under the age of 21 who purchases a share for play of a VLT or otherwise plays a VLT – Class 1 misdemeanor.
- Any person who tampers with a VLT with intent to interfere with proper operation of the VLT:
  - First offense – Class 1 misdemeanor.
  - Second offense – Class H felony.
  - Third or subsequent offense – Class G felony.
- Any person who intends to manipulate the outcome, payoff, or operation of a VLT and does so by physical tampering or any other means:
  - First offense – Class G felony.
  - Second or subsequent offense – Class F felony.
- Any video lottery merchant or operator who falsely reports or fails to report the amount due required by the Commission – Class G felony and subject to license termination.

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- Any video lottery merchant who pays a prize in an amount less than the prize won – Class G felony and subject to license termination.

## Community College Scholarship Loan Program

The PCS would establish the Community College Scholarship Loan Program (Program) to provide scholarship forgivable loans to North Carolina residents to attend community colleges in pursuit of an associate degree, diploma, or certificate. The State Education Assistance Authority (Authority) would be responsible for administering the Program. The Program would be funded from transfers from the North Carolina Video Lottery Fund, funds received from repayment of loans that did not meet the qualifications of forgiveness, and interest earned on those monies.

The Authority must award scholarship forgivable loans to eligible students for up to 6 academic years for an individual to attend a North Carolina community college. To be eligible, a student must qualify as a resident for tuition purposes, gain admission as a student at a North Carolina community college in a curriculum program awarding an associate degree, diploma, or certificate, and complete a FAFSA application to apply for the Program. Scholarship forgivable loans would be reduced by any amount of grants or scholarships received by the student. If there are insufficient funds in the Program to provide scholarship forgivable loans to all eligible students, the Authority may utilize a lottery system to award scholarship forgivable loans.

The Authority must forgive a scholarship forgivable loan and interest if the recipient is awarded an associate degree, diploma, or certificate at a North Carolina community college within 6 years or if the Authority determines it is impossible for the recipient to finish the curriculum due to death or disability. A student may be enrolled part time and would not be required to be continuously enrolled over the six-year eligibility period if the student experiences extenuating circumstances in which the student cannot enroll in courses for one academic semester as long as the student maintains the intent to continue in the program of study. If no extenuating circumstances exist, the student would be required to repay the loan, plus interest, within 5 years of a disqualifying event. A disqualifying event is any of the following:

- The recipient withdraws from enrollment for more than one academic semester during the 6-year period.
- The recipient notifies the authority that they are voluntarily withdrawing from the program for which an associate degree, diploma, or certification was sought and does not intend to reenroll.
- The recipient does not receive an associate degree, diploma, or certification within the 6-year period.

Scholarship forgivable loans would first be awarded for the 2023-2024 academic year. Beginning in 2023, and annually thereafter, the Authority would be required to report to the Joint Legislative Education Oversight Committee on the implementation of the Program, including the number of students applying to the Program, the number of students receiving scholarship forgivable loans, the amount of funds expended, and the number of students completing their curriculum and receiving forgiveness within 3 years.

**EFFECTIVE DATE:** The Commission would be authorized to use sufficient funds from the North Carolina State Lottery Fund to cover initial operating expenses of the Commission to implement the newly created Article when the bill becomes law. The remainder of the bill would become effective January 1, 2022.

In order to issue licenses and permits for play by the public in this State on the effective date of this act, the Lottery Commission may begin rulemaking to implement Article 9 of Chapter 18C of the General

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Statutes, as enacted by this act, prior to January 1, 2022, but no temporary or permanent rule shall become effective prior to January 1, 2022. The Lottery Commission may initiate requests for proposals for the central monitoring system, as required by G.S. 18C-330, as enacted by this act, prior to January 1, 2022, but may not award any contract prior to that date. The Commission may accept and issue applications for licensure in accordance with Article 9 of Chapter 18C of the General Statutes, as enacted by this act. No license issued by the Commission shall become effective prior to January 1, 2022, or on the date the Commission deems the central monitoring system active, whichever occurs later.