

General Assembly Takes Aim at Internet Sweepstakes

As expected, the regulation of internet sweepstakes has been a hot topic during the first few weeks of the 2010 state legislative session. Members of the General Assembly have introduced at least four bills that could affect how local governments tax these establishments.

Despite earlier calls for the criminalization of internet sweepstakes, none of the bills would ban them. Instead the bills seek to use video gaming as a revenue source, not a shocking result given the state's predicted \$800 million deficit. What is surprising is the fact that these bills propose to share at least some of that revenue with local governments.

Three bills would grant the state authority to regulate and tax different forms of video gaming. Only one of the three, [House Bill 2030](#)^[1], explicitly covers internet sweepstakes. That bill would legalize video gaming machines, defined as "a computer terminal or any other video display device that is used to reveal sweepstakes entries, or play simulated games of chance and rewards players with either further game credits, cash, or prizes." The N.C. Department of Revenue would charge businesses that operate these machines an annual \$5,000 license fee, which would be retained by the state, and an annual \$250-per-machine fee, which (minus a 4% DOR administration charge) would be distributed to the local government where the machines are located.

Absent subsequent amendments, I don't think the other two bills that would grant the state regulatory and taxation authority over video gaming would affect internet sweepstakes. [House Bill 1537](#)^[2] and [Senate Bill 1407](#)^[3] cover only the video slots, keno, bingo, etc., currently banned by [GS 14-306.1A](#)^[4]. Internet sweepstakes operators have avoided prosecution under GS 14-306.1A by claiming that their machines are simply revealing sweepstakes entries and not actually playing slots or bingo or keno. If internet sweepstakes games fall outside the scope of GS 14-306.1A then they also fall outside the scope of House Bill 1537 and Senate Bill 1407, a result that may not have intended by the bills' sponsors.

Here are the current details of these two bills. House Bill 1537 would allow the state to skim 20% off the top of all video gaming revenue, at least half of which would be distributed to low-wealth counties to improve their schools. The DOR would also charge video gaming operators \$5,000 for a 10-year license and annual \$200-per-machine fees, but none of these fees would be shared with local governments. Senate Bill 1407 would allow the state lottery commission to license video gaming machines and turn over at least 48% of the revenue to the state. Operators would be charged \$5,000 for a 10-year license and annual \$250-per-machine fees, all of which (minus a 4% DOR administrative charge) would be distributed to the local governments where the machines are located.

Interestingly, only Senate Bill 1407 would explicitly prohibit local privilege license taxes (and possibly zoning regulations) on the video gaming being regulated by the state. The other two bills are silent on that issue, which suggests that local government taxation authority would be unaffected. But I don't think that was the intent of the bills and would not be surprised to see amendments clarifying that the new state taxes preempt local taxes on these businesses.

The fourth bill, [Senate Bill 1439](#)^[5], is a local one that would grant only a single county—New Hanover County—the same authority as cities possess to levy privilege license taxes on internet sweepstakes. Or more accurately, as I *think* cities possess, given the restrictions in the federal Internet Tax Freedom Act. (See my post on this issue [here](#)^[6].) Why only New Hanover

County? Perhaps only that county asked its state delegation for this authority. Others may follow after learning of this bill, but such efforts could become moot if any of the three bills discussed above are adopted.

With the General Assembly in session for at least another month, more legislation on internet sweepstakes is likely. Stay tuned . . .

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URLs in this post:

- [1] House Bill 2030: <http://www.ncleg.net/Sessions/2009/Bills/House/HTML/H2030v0.html>
- [2] House Bill 1537: <http://www.ncleg.net/Sessions/2009/Bills/House/HTML/H1537v1.html>
- [3] Senate Bill 1407: <http://www.ncleg.net/Sessions/2009/Bills/Senate/HTML/S1407v0.html>
- [4] GS 14-306.1A:
http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-306.1A.html
- [5] Senate Bill 1439:
<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2009&BillID=s1439>
- [6] here: <http://sogweb.sog.unc.edu/blogs/localgovt/?p=2333>