

Video Gaming

On July 13, 2009 Governor Pat Quinn signed the Video Gaming Act (Public Acts 096-0034, 096-0037 and 096-0038) (the “Act”) making Licensed Video Gaming Terminals legal in Illinois. The Act allows for Licensed Video Gaming Terminals to be placed in certain liquor establishments, truck stops and fraternal/veterans clubs throughout the State. The Illinois Gaming Board (the “IGB” or “Board”) has the responsibility of implementing and regulating video gaming in Illinois.

Frequently Asked Questions regarding the Video Gaming Act and Video Gaming License Applications Updated April 2012

Answers to some common and frequently asked questions related to the Video Gaming Act and Video Gaming License Applications are provided below. The following list is non-exhaustive and may be supplemented or updated in the future.

Q1: What is a Video Gaming Terminal?

A1: A “Video Gaming Terminal” (“VGT”) is an electronic video gaming machine that plays or simulates the play of a video game authorized by the Board upon the insertion of cash. Authorized video games include, but are not limited to, video poker, line up, and blackjack. The VGT must utilize a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. VGT does *not* include a Terminal that directly dispenses coins, cash, or tokens or is for amusement purposes only.

Q2: Does the IGB have jurisdiction over “amusement only” devices in Illinois?

A2: The IGB does not license “amusement only” devices in Illinois. Questions about the licensure of such devices should be directed to the Illinois Department of Revenue at (312) 814-5232 (Chicago) or (217) 782-3336 (Springfield).

Questions or complaints about amusement only devices that illegally pay out should be directed to the police in the municipality where the Terminals are located.

Q3: When will the IGB adopt Rules for video gaming?

A3: The IGB has adopted Administrative Rules which will dictate how video gaming will operate and be regulated in Illinois. (11 Ill. Admin. Code 1800 *et seq.*) The Rules can be found on the IGB website, at www.igb.state.il.us/VideoGaming. The IGB continues to promulgate additional rules and the text of any pending rule along with information on how to submit comments on the rule is also posted on the IGB website.

Q4: Can local jurisdictions restrict the use of VGTs?

A4: Yes. A municipality may pass an ordinance prohibiting video gaming within the corporate limits of the municipality. A county board may pass an ordinance prohibiting video gaming within the unincorporated areas of the county. Video gaming is not allowed in these communities. The IGB is in

the process of developing a list of such communities and will post the list on its website in the near future.

In addition, a local government may hold a referendum proposing to prohibit video gaming in the municipality. This is otherwise known as an “opt-out” provision. A petition for referendum must be filed in the office of the clerk (municipal or county) at least 90 days before the date of an election. If a majority of the voters vote “YES,” video gaming shall be prohibited within the municipality or county. Petitions to prohibit video gaming shall be public documents. A list of the communities that have opted out of video gaming is posted on the IGB website.

If you have any questions about the status of your community, please contact your local municipal authority.

Q5: What types of licenses will the IGB issue, and when will applications for those licenses be made available?

A5: Applications for Manufacturer, Distributor, Supplier, Terminal Operator and Location licenses are currently available on the IGB website. Applications for Technician and Terminal Handler licenses will be available in the near future. Descriptions of the licenses are as follows:

“Manufacturer.” A manufacturer is an individual, partnership corporation or limited liability company licensed to manufacture or assemble video gaming terminals.

“Distributor.” A distributor is an individual, partnership corporation, or limited liability company licensed to buy, sell, lease, or distribute video gaming terminals, or major components or parts thereof, to or from terminal operators.

“Supplier.” A supplier is an individual, partnership corporation or limited liability company licensed to supply major components or parts of video gaming terminals to terminal operators.

“Terminal operator.” A terminal operator is an individual, partnership corporation or limited liability company licensed to own, service, and maintain video gaming terminals for placement in licensed establishments, licensed truck stop establishments, licensed fraternal establishments, or licensed veterans establishments.

“Licensed video gaming location.” A licensed establishment, licensed fraternal establishment, licensed veterans establishment, or licensed truck stop establishment, all defined in Question 6, below.

“Licensed Technician.” A licensed technician is an individual licensed to repair, service, and maintain video gaming terminals. A licensed technician is not licensed under the Act to possess or control a video gaming terminal or have access to the inner workings of a video gaming terminal (i.e., the logic area maintained in a separately locked cabinet of the video gaming terminal which houses electronic components that have the potential to significantly influence the operation of the video gaming terminal). As such, licensed technicians can repair, service and maintain VGTs only outside of the innermost locked area of a VGT housing the electronic logic components that have the potential to significantly influence the operation of the VGT. Such repairs and maintenance would include refilling printer paper, repairing bill validators, resetting tilted Terminals, repairing video displays, etc.

“Licensed Terminal Handler.” A licensed terminal handler is a person licensed to possess or control a video gaming terminal or to have access to the inner workings of a video gaming terminal (i.e., the logic area maintained in a separately locked cabinet of the video gaming terminal which houses electronic components that have the potential to significantly influence the operation of the video gaming terminal.) The category of “licensed terminal handler” may include, but is not limited to, an employee or independent contractor working for a manufacturer, distributor, supplier, technician, or terminal operator.

Q6: What types of locations can be licensed to have VGTs?

A6: Video Gaming Terminals may only be placed in the following four categories of Licensed Locations:

“Licensed establishment.” A licensed establishment is any licensed retail establishment where alcoholic liquor is served for consumption on the premises.

“Licensed fraternal establishment.” A licensed fraternal establishment is a location where a fraternal organization that derives its charter from its national parent organization regularly meets.

“Licensed veterans establishment.” A licensed veterans establishment is a location where a qualified veterans organization that holds a charter from its national parent organization regularly meets.

“Licensed truck stop establishment.” A licensed truck stop establishment is a facility of at least three acres with a convenience store, separate diesel islands for fueling commercial motor vehicles, parking spaces for commercial vehicles, and that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month.

Q7: What type of documentation will be required to meet the definition of Licensed Truck Stop Establishment?

A7: An affidavit confirming that the facility is at least 3 acres and has average monthly sales of more than 10,000 gallons of diesel or biodiesel fuel per month (which may be met by showing estimated future sales or past sales). Supporting documentation for these factors must be attached to the affidavit.

Q8: What type of documentation will be required to meet the definition of Licensed Fraternal or Veterans Establishment?

A8: A copy of the most recent letter from the Internal Revenue Service stating that the Applicant organization is either a fraternal benefit society that is exempt from federal income tax under section 501(c)(8) of the Internal Revenue Code, a domestic fraternal society that is exempt from federal income tax under section 501(c)(10) of the Internal Revenue Code, or a veterans organization that is exempt from federal income tax under section 501(c)(19) of the Internal Revenue Code.

Q9: Who needs to obtain a Technician license under the Video Gaming Act?

A9: If an individual is a Licensed Terminal Operator, or is employed by a Licensed Terminal Operator, Licensed Distributor or Licensed Manufacturer, that individual may service, maintain or repair a VGT *without* obtaining a Technician license. Any other individual who services, maintains or repairs a VGT *must* obtain a Technician license under the Act.

Q10. Who needs to obtain a Terminal Handler license under the Video Gaming Act?

A10: Any individual needing access to the inner workings of a VGT. “Inner workings” comprises the logic area inside of a VGT. The logic area has a separate locked compartment inside the VGT which houses electronic components that have the potential to significantly influence the operation of the VGT. The specific electronic components contained in the logic area include: (1) the game’s central processing unit(s), (2) communication controller electronics and components housing the communication storage device, and (3) the memory back-up device.

Q11: Can an individual be licensed as a Licensed Technician and a Licensed Terminal Handler?

A11: Yes.

Q12: Does a company who provides ticket payout systems to Licensed Terminal Operators and Licensed Locations need to be licensed?

A12: Yes. Major Components or Parts is defined in the applications as “[c]omponents or parts that compromise the inner workings and peripherals of a Video Gaming Terminal, including but not limited to the device’s hardware, software, human interface devices, interface ports, power supply, ticket payout system, bill validator, printer and any component which affects or could affect the result of a Game played on the device.” Buying, selling, leasing, or distributing Major Components or Parts requires a license.

Q13: Does a Licensed Distributor who is distributing VGTs also need a Supplier’s license to supply replacement parts for the VGTs it distributes?

A13: No. A Licensed Distributor is defined as “[a]n Individual, partnership corporation or limited liability company licensed under the Act to buy, sell, lease or distribute Video Gaming Terminals or major components or parts of Video Gaming Terminals to or from Terminal Operators.”

Q14: Can an individual who owns a bar also be licensed as a Terminal Operator?

A14: Yes, as long as the bar in question is NOT a Licensed Video Gaming Location. In other words, the bar in question may not participate in video gaming, regardless of who would serve as its Terminal Operator.

Q15: What are the requirements for licensure under the Act?

A15: Many requirements for licensure are listed in Rule 420 of the Video Gaming Rules. In addition, the following are also requirements for licensure:

- (a) Burden is upon applicant. The burden is upon each applicant to demonstrate suitability for licensure. The Board may issue or deny a license under this Act to any person under the same criteria set forth in Section 9 of the Riverboat Gambling Act (230 ILCS 10/9 (West 2008)). In addition, no person may receive a license under the Act if found by the Board to:

- (1) Have been convicted of any violation of Article 28 of the Criminal Code of 1961; and/or

- (2) Have a background (including a criminal record, reputation, habits, social or business associations, or prior activities) that poses a threat to the public interests of the State or to the security and integrity of video gaming; and/or
- (3) Create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of video gaming; and/or
- (4) Present questionable business practices and financial arrangements incidental to the conduct of video gaming activities.

(b) Background investigations. Each person seeking and possessing a license shall submit to a background investigation conducted by the Board with the assistance of the State Police or other law enforcement. This investigation shall include an applicant’s direct and indirect owners, an applicant’s officers and directors, and the video gaming manager for a license application.

(c) Disclosure of financial interests. Each person seeking and possessing a license under the Act shall disclose the identity of every person or entity having a direct ownership interest in the video gaming operation, and shall disclose each person or entity having an indirect interest of more than 1% in the video gaming operation for which the license is sought. If the disclosed entity is a trust, the application shall disclose the names and addresses of the beneficiaries; if a corporation, the names and addresses of all stockholders and directors; if a partnership, the names and addresses of all partners, both general and limited; if a limited liability company, the names and addresses of all members.

(d) License application fees:

Manufacturer	\$5,000
Distributor	\$5,000
Terminal operator	\$5,000
Supplier	\$2,500
Technician	\$100
Terminal handler	\$50

(e) Term of License & Annual license fees. A license must be renewed every year, and the annual fees may not exceed these levels:

Manufacturer	\$10,000
Distributor	\$10,000
Terminal operator	\$5,000
Supplier	\$2,000
Technician	\$100
Licensed establishment (in any category)	\$100
Video Gaming Terminal	\$100
Terminal handler	\$50

Q16: How will the distance restrictions in Section 25(h) of the Act be measured?

A16: Video gaming is restricted from the following locations:

- 1) 1,000 feet of a facility operated by an organization licensee, inter-track wagering licensee, or inter-track wagering location licensee licensed under the Illinois Horse Racing Act of 1975 (230 ILCS 5/1 et seq. (West 2008)) (the Board may waive this restriction in certain circumstances);
- 2) 1,000 feet of the home dock of a riverboat licensed under the Riverboat Gambling Act (230 ILCS 10/1 et seq. (West 2008)) (the Board may waive this restriction in certain circumstances); or
- 3) 100 feet of either a school or a place of worship under the Religious Corporation Act (805 ILCS 110/0.01 et seq. (West 2008)).

These distances will be determined by measuring the distance from a proposed or existing Licensed Video Gaming Location to a preexisting facility, riverboat, school or place of worship by drawing a straight line between the closest part of any building used for the proposed or existing Licensed Video Gaming Location and the closest part of any building used for the facility, riverboat, school or place of worship. When located within a subsection of property by virtue of a lease, deed, or other arrangement (e.g., a tenant in a shopping center or commercial condominium), measurement shall be from the subsection of property (i.e., boundaries of the establishment's leased building premises).

For purposes of these restrictions, “home dock” is interpreted to mean the casino building or vessel (i.e., the building or vessel housing the casino floor).

Q17: Must Licensed Video Gaming Location applicants enter into a signed Use Agreement with a Terminal Operator before they can submit an application to the IGB?

A17: No, a signed Use Agreement is not required for a potential Licensed Video Gaming Location to submit an application. However, a Licensed Video Gaming Location must have a signed Use Agreement with a Licensed Terminal Operator prior to the placement of any VGTs in the Licensed Video Gaming Location’s establishment.

Q18: Do the directors and officers of the parent company of a licensee need to file Personal Disclosure Forms?

A18: For license applications that require Personal Disclosure Forms (e.g., Manufacturer, Distributor, Supplier, and Terminal Operator), if the director or officer of the parent company owns more than 5% of the licensee, then that director or officer will need to file a Personal Disclosure Form.

Q19: If an entity that has been doing business in Illinois for 48 months prior to July 13, 2009 forms a subsidiary to conduct its video gaming business in Illinois (and would therefore be the Applicant for licensure), would that subsidiary meet the residency requirement (i.e., would the subsidiary meet the requirement that it has been doing business in Illinois for 48 months)?

A19: If an entity who meets the residency requirement forms a 100% wholly owned subsidiary to conduct its video gaming business in Illinois, that 100% wholly owned subsidiary meets the residency requirement. Please note that this answer is limited to a 100% wholly owned subsidiary.

Q20: Section 3(c) of the Manufacturer/Distributor/Supplier License Application requires 5% or greater shareholders of a publicly-traded parent company of an applicant to submit a Personal Disclosure Form or Business Entity Disclosure Form. How is this requirement being applied to institutional investors/investment advisors that hold the interest for investment purposes and certify in an SEC Schedule 13-G filing that the interest is not for the purpose of controlling the applicant?

A20: Pursuant to Rule 520(c), a business entity that qualifies as an institutional investor may submit a Video Gaming Institutional Investor Disclosure Form in lieu of a Video Gaming Business Entity Disclosure Form.

Q21: Section 5(A) of the Manufacturer/Distributor/Supplier License Application and Section 4(A) of the Business Entity Disclosure Form require financial statements for a period ending 1 month prior to the date of application. Will the most recently filed SEC reports for a publicly traded company satisfy this requirement?

A21: Yes. If reference is made to SEC reports, it will be sufficient if the applicant identifies where those reports can be found on the internet.

Q22: Convertible debt is included in the definition of ownership. Does each person who holds convertible debt have to file a Personal Disclosure Form?

A22: The Applicant/Licensee must identify each person who holds convertible debt and provide a copy of the applicable debt instrument(s) and associated agreement(s) with the application or upon issuance of the convertible debt. The Board will make a determination as to the debt holder's influence and/or control over the Applicant/Licensee consistent with section 430 of the Video Gaming Rules. The holder of convertible debt must submit a Video Gaming Personal Disclosure Form and any other required document and receive prior Board approval in order to convert the debt.

Q23: How long does it take a license to be investigated and approved?

A23: The investigation of any application under the Act is a thorough and time consuming process. The length of time it takes the IGB to complete an investigation depends on the type of license applied for, and the complexity of the applicant and any issues involved in the application.

Q24: How many VGTs will be allowed at each site?

A24: Up to five VGTs may be placed at each Licensed Video Gaming Location.

Q25: Are VGTs allowed anywhere inside a Licensed Video Gaming Location?

A25: VGTs must be located in an area restricted to persons 21 years of age and over, the entrance to which is within the view of at least one employee who is at least 21 years of age. The placement of VGTs in Licensed Video Gaming Locations shall be subject to section 810 of the Video Gaming Rules. For all Locations that restrict admittance to patrons 21 years of age or older, a separate restricted area is not required. For all Locations that admit individuals under the age of 21, a physical barrier to the gaming area, including but not limited to a short partition, gate or rope shall be required. No barrier shall visually obscure the entrance to the gaming area from an employee of the Location who is over the age of 21.

Q26: Are there limits on the hours of operation of a VGT?

A26: Yes. Pursuant to Sections 35(b)(2) and 55 of the Act, hours of operation of a VGT must coincide with the legal hours of operation for the consumption of alcoholic beverages on the premises. However, a Licensed Truck Stop Establishment that does not hold a liquor license may operate VGTs on a continuous basis.

Q27: Are multi-game VGTs permitted under the Video Gaming Act?

A27: Yes, provided that the games have been tested and approved.

Q28: Will Licensed Manufacturers need secondary approval for their VGTs?

A28: Yes. All VGTs will need to be (1) certified by Gaming Laboratories International pursuant to the IGB's current Technical Standards for Video Gaming Terminals in Illinois, and (2) approved in writing by the IGB for use in Illinois.

Q29: In what circumstances can VGTs be displayed in Illinois prior to the actual commencement of video gaming in Illinois?

A29: VGTs that are disabled for marketing purposes such that they do not accept money, do not dispense money or payout tickets, or only contain demonstration software that cannot be disabled may, until further notice, be displayed in the following circumstances:

- 1) Licensed Manufacturers, Licensed Distributors, Licensed Terminal Operators and Applicants for a Manufacturer's License under the Act may display VGTs at "trade shows" or similar events as long as the IGB is notified 10 days in advance of the following information, and prior approval by the IGB is obtained:
 - a. the date and location of the event;
 - b. the model and serial number of each VGT involved;
 - c. the manner of transport of each VGT involved;
 - d. a description of how the VGTs will at all times be possessed by and under the control of the applicant for a Manufacturer's License under the Video Gaming Act.

Q30: In what circumstances can VGTs be used in conjunction with focus groups in Illinois prior to the actual commencement of video gaming in Illinois?

A30: VGTs that are disabled for marketing purposes such that they do not accept money, do not dispense money or payout tickets, or only contain demonstration software that cannot be disabled may, until further notice, be used in conjunction with a focus group in the following circumstances:

- 1) Licensed Manufacturers, Licensed Distributors, Licensed Terminal Operators and Applicants for a Manufacturer's License under the Act may use VGTs at "focus groups" as long as the IGB is notified 10 days in advance of the following information, and prior approval by the IGB is obtained:
 - a. the date, time and location of the event;
 - b. the model and serial number of each VGT involved;
 - c. the manner of transport of each VGT involved;
 - d. a description of the purpose of the focus group;
 - e. a description of how the applicant for a Manufacturer's License will be inviting participants;
 - f. a description of the method and amount of compensation of participants, if applicable; and
 - g. any other relevant details regarding the focus group (including but not limited to whether food and beverage will be provided).
- 2) Alcohol must not be provided to participants of focus groups.

Q31: Is compensating or paying a third party a percentage of revenue from a VGT(s) permitted?

A31: Compensating any third party based on a percentage of revenue from a VGT is permitted, however, any third party compensated in such a manner will be required to complete a Video Gaming Personal Disclosure Form or a Business Entity Disclosure Form.

Financing the purchase of VGTs based on a percentage of revenue will not be permitted.

Q32: Has the IGB developed standards to identify an illegal inducement by a Licensed Terminal Operator?

A32: Yes. The IGB's Inducement Policy is posted on its website.

Q33: Are licensees allowed to use player tracking systems or establish "Players' Clubs" or similar programs that provide rewards to customers for repeated play?

A33: Tracking systems and Players Clubs may be authorized by the IGB in the future but are prohibited at this time.

Q34: What types of payout systems will be allowed by the IGB?

A34: A vault-type or kiosk system provided by a Licensed Supplier or Licensed Distributor, that interfaces with the Central Communications System through a site controller, and that dispenses cash. Specifications for payout systems will be posted on the IGB website in the near future.

Pursuant to Section 20 of the Act, a patron must hand a ticket to an appropriate person at a Licensed Location. A patron will not be able to insert a ticket into a payout system by himself or herself. The cash, however, may be dispensed directly to a patron.

Q35: Will a Licensed Manufacturer, Licensed Terminal Operator or Licensed Location be permitted to attach an online monitoring system to the second port of a VGT?

A35: Yes.

Q36: Are Licensed Terminal Operators required to maintain a separate bank account for each Licensed Location, as provided in Rule 250(i)?

A36: The IGB is taking steps to eliminate the Rule that requires Licensed Terminal Operators to maintain separate bank accounts for each Licensed Location it contracts with. However, it is still a requirement that revenues generated from the play of VGTs shall be deposited by the Licensed Terminal Operator in one specially created, separate bank account maintained by the Licensed Terminal Operator to allow for electronic fund transfers of moneys for tax payment.