

ILLINOIS REGISTER

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3) Section Number: 1800.370 Adopted Action:
New Section
- 4) Statutory Authority: Implementing and authorized by Sections 78(a)(3) of the Video Gaming Act [230 ILCS 40/78 (a) (3)], which provides that the Illinois Gaming Board shall “adopt rules for the purpose of administering the provisions of this Act.”
- 5) Effective Date of Rule:
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the principal office and is available for public inspection.
- 9) Notice of proposal published in Illinois Register: 47 Ill. Reg. 19279; December 29, 2023
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:

Notice: The adopted version, unlike the proposed version, requires that prior to any deactivation, the Administrator shall provide five days’ written notice of deactivation to all entities listed in the location’s license application. This notice shall identify the basis for the deactivation. [New Section 1800.370 (b)].

Avoidance of deactivation: Newly added language provides that a location may avoid deactivation by curing the basis for deactivation within 5 days of receiving the deactivation notice, or establishing a prima facie case that the basis for deactivation is the result of an error or defect that the location did not cause. [New Section 1800.370 (c) (1) and (2)].

Reactivation fee: The administrative fee for reactivation is changed from \$150 to the annual fee for a licensed establishment, currently set at \$100 under Section 45 (g) (6) of the Video Gaming Act [230 ILCS 40/45 (g) (6)], to be imposed on each VGT that is reactivated. [New Section 1800.370(e)]. A location is excused from paying the

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reactivation fee if it can demonstrate by clear and convincing evidence that it did not cause the basis for the deactivation. [New Section 1800.370 (e) (1)].

Reactivation by the Administrator: The Administrator shall reactivate a video gaming terminal if a location has both cured the basis for the deactivation and paid the reactivation fee, if applicable. [New Section 1800.370 (e) (2)].

Appointment of Administrative Law Judge in contested cases. [New Section 1800.370 (f)]. The proposed rule did not provide for a hearing before an Administrative Law Judge in contested cases. The procedures to be followed under subsection (f) of the adopted rulemaking are summarized in item 15 below (“Summary and Purpose of Rulemaking”).

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this part? Yes

<u>Section Numbers</u>	<u>Proposed Actions</u>	<u>Illinois Register Citations</u>
1800.320	Amendment	48 Ill. Reg. 8252; June 7, 2024
1800.322	New Section	48 Ill. Reg. 8252; June 7, 2024
1800.430	Amendment	48 Ill. Reg. 8252; June 7, 2024
1800.450	New Section	48 Ill. Reg. 8252; June 7, 2024
1800.110	Amendment	48 Ill. Reg. 10972; August 2, 2024
1800.156	New Section	48 Ill. Reg. ____; October 25, 2024

- 15) Summary and Purpose of Rulemaking: The proposed rulemaking adds a new Section 1800.370 (“Deactivation of Video Gaming Terminals”). This section authorizes the Administrator of the IGB to deactivate the VGTs of a video gaming location if that location fails to fulfill its duties under the Video Gaming Act [230 ILCS 40] or the Video Gaming (General) Part of the Illinois Administrative Code [11 Ill. Admin. Code 1800]. Circumstances in which the Administrator may deactivate the VGTs of a location under this rulemaking are:

Failure to timely pay a sum owed to the Board;

Suspension, revocation or expiration of a state or local liquor license; or

Failure to comply with a valid Board order.

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(Subsection (a) of proposed rulemaking).

Before the Administrator may deactivate the video gaming terminals of a licensed video gaming location (“location”), the Administrator shall provide written notice to the location stating that the VGTs may be deactivated and identifying the basis for the deactivation. The deactivation notice shall be sent to all entities listed in the location’s license application no less than five days prior to the noticed deactivation. (Subsection (b)).

A location may avoid deactivation by either: (1) curing the basis for deactivation within five days of receiving the deactivation notice; or (2) establishing a prima facie case that the basis for deactivation is the result of an error or defect that the location did not cause. (Subsection (c)).

If the Administrator finds that the location has failed to establish grounds to avoid deactivation, the Administrator may deactivate the location’s terminals. (Subsection (d)).

Following deactivation of a location’s VGTs, the licensee shall cure the basis for the deactivation and pay a reactivation fee before the terminals are reactivated. The reactivation fee shall be equal to the location’s annual license fee (currently set at \$100 by Section 45 (g) (6) of the Video Gaming Act [230 ILCS 45 (g)]) per video gaming terminal. A licensee is excused from paying the reactivation fee if it can establish by clear and convincing evidence that it did not cause the basis for the deactivation. The Administrator shall reactivate the location’s terminals within 5 days after the location has both cured the basis of the deactivation and paid the reactivation fee, if applicable. (Subsection (e)).

The Administrator may appoint an Administrative Law Judge if the Administrator determines that a hearing is warranted to determine whether the basis for the deactivation is the result of an error or defect the location did not cause, or whether the location has cured the basis for deactivation. The hearing shall follow the procedures established under Subpart F of the Video Gaming (General) Part entitled “Denials of Applications for Licensure.” The sole issues at hearing shall be whether the basis for deactivation is the result of an error or defect the location did not cause, or whether the licensee has cured the basis for deactivation. The location shall bear the burden of proof at all times and shall have the affirmative responsibility to establish its case by clear and convincing evidence. (Subsection (f)).

16) Information and Questions regarding this adopted rulemaking may be addressed to:

Daniel Gerber
General Counsel

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The full text of the Adopted Amendment begins on the next page.

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TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE D: VIDEO GAMING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

Section	
1800.110	Definitions
1800.115	Gender
1800.120	Inspection
1800.130	Board Meetings
1800.140	Service Via E-mail

SUBPART B: DUTIES OF LICENSEES

Section	
1800.210	General Duties of All Video Gaming Licensees
1800.220	Continuing Duty to Report Information
1800.230	Duties of Licensed Manufacturers
1800.240	Duties of Licensed Distributors
1800.250	Duties of Terminal Operators
1800.260	Duties of Licensed Technicians and Licensed Terminal Handlers
1800.265	Duties of Sales Agents and Brokers
1800.270	Duties of Licensed Video Gaming Locations

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section	
1800.310	Grounds for Disciplinary Actions
1800.320	Minimum Standards for Use Agreements
1800.321	Solicitation of Use Agreements or Agreements that Purport to Control the Placement and Operation of Video Gaming Terminals
1800.330	Economic Disassociation
1800.340	Change in Ownership of Terminal Operators and Assets Held by Terminal Operators
1800.350	Inducements
1800.360	Terminal Operator Record Retention

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1800.370 Deactivation of Video Gaming Terminals

SUBPART D: LICENSING QUALIFICATIONS

Section

1800.410 Coverage of Subpart
1800.420 Qualifications for Licensure
1800.430 Persons with Significant Influence or Control
1800.440 Undue Economic Concentration

SUBPART E: LICENSING PROCEDURES

Section

1800.510 Coverage of Subpart
1800.520 Applications
1800.530 Submission of Application
1800.540 Application Fees
1800.550 Consideration of Applications by the Board
1800.555 Withdrawal of Applications and Surrender of Licenses
1800.560 Issuance of License
1800.570 Renewal of License
1800.580 Annual Fees
1800.590 Death and Change of Ownership of Video Gaming Licensee
1800.595 Temporary Identification Badge

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section

1800.610 Coverage of Subpart
1800.615 Requests for Hearing
1800.620 Appearances
1800.625 Appointment of Administrative Law Judge
1800.630 Discovery
1800.635 Subpoenas
1800.640 Motions for Summary Judgment
1800.650 Proceedings
1800.660 Evidence
1800.670 Prohibition on Ex Parte Communication
1800.680 Sanctions and Penalties
1800.690 Transmittal of Record and Recommendation to the Board

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1800.695 Status of Applicant for Licensure Upon Filing Request for Hearing

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section

1800.710 Coverage of Subpart
1800.715 Notice of Proposed Disciplinary Action Against Licensees
1800.720 Hearings in Disciplinary Actions
1800.725 Appearances
1800.730 Appointment of Administrative Law Judge
1800.735 Discovery
1800.740 Subpoenas
1800.745 Motions for Summary Judgment
1800.750 Proceedings
1800.760 Evidence
1800.770 Prohibition on Ex Parte Communication
1800.780 Sanctions and Penalties
1800.790 Transmittal of Record and Recommendation to the Board
1800.795 Persons Subject to Proposed Orders of Economic Disassociation

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN
LICENSED VIDEO GAMING LOCATIONS

Section

1800.810 Location and Placement of Video Gaming Terminals
1800.815 Licensed Video Gaming Locations Within Malls
1800.820 Measurement of Distances from Locations
1800.830 Waivers of Location Restrictions

SUBPART I: SECURITY INTERESTS

Section

1800.910 Approvals Required, Applicability, Scope of Approval
1800.920 Notice of Enforcement of a Security Interest
1800.930 Prior Registration

SUBPART J: TRANSPORTATION, REGISTRATION,
AND DISTRIBUTION OF VIDEO GAMING TERMINALS

Section

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- 1800.1010 Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
- 1800.1020 Transportation of Video Gaming Terminals into the State
- 1800.1030 Receipt of Video Gaming Terminals in the State
- 1800.1040 Transportation of Video Gaming Terminals Between Locations in the State
- 1800.1050 Approval to Transport Video Gaming Terminals Outside of the State
- 1800.1060 Placement of Video Gaming Terminals
- 1800.1065 Registration of Video Gaming Terminals
- 1800.1070 Disposal of Video Gaming Terminals

SUBPART K: STATE-LOCAL RELATIONS

- Section
- 1800.1110 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

- Section
- 1800.1210 Definitions
- 1800.1220 Entities Authorized to Perform Fingerprinting
- 1800.1230 Qualification as a Livescan Vendor
- 1800.1240 Fingerprinting Requirements
- 1800.1250 Fees for Fingerprinting
- 1800.1260 Grounds for Revocation, Suspension and Denial of Contract

SUBPART M: PUBLIC ACCESS TO INFORMATION

- Section
- 1800.1310 Public Requests for Information

SUBPART N: PAYOUT DEVICES AND REQUIREMENTS

- Section
- 1800.1410 Ticket Payout Devices
- 1800.1420 Redemption of Tickets Following Removal or Unavailability of Ticket Payout Devices
- 1800.1421 Redemption of Video Gaming Tickets During a Coin Shortage

SUBPART O: NON-PAYMENT OF TAXES

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Section
1800.1510 Non-Payment of Taxes

SUBPART P: CENTRAL COMMUNICATIONS SYSTEM

Section
1800.1610 Use of Gaming Device or Individual Game Performance Data

SUBPART Q: RESPONSIBLE GAMING

Section
1800.1710 Conversations About Responsible Gaming
1800.1720 Responsible Gaming Education Programs
1800.1730 Problem Gambling Registry
1800.1740 Utilization of Technology to Prevent Problem Gambling
1800.1750 Problem Gambling Signage

SUBPART R: IMPLEMENTATION OF TECHNOLOGY

Section
1800.1810 Implementation of Technology

SUBPART S: INDEPENDENT TESTING LABORATORIES

Section
1800.1910 Independent Outside Testing Laboratories
1800.1920 Minimum Duties of an Independent Outside Testing Laboratory
1800.1930 Testing of Video Gaming Equipment
1800.1940 Approval of Video Gaming Equipment

SUBPART T: IN-LOCATION PROGRESSIVE GAMES

Section
1800.2010 In-location Progressive Games
1800.2020 Optional Nature of In-location Progressive Games
1800.2030 Procedures Within Licensed Video Gaming Locations
1800.2040 Payments of Progressive Jackpot Amount
1800.2050 Deductions from Progressive Jackpots
1800.2060 Progressive Jackpot Coordinator
1800.2070 Progressive Meters

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SUBPART U: UNDERAGE GAMBLING COMPLIANCE

Section

- 1800.2110 Statement of Purpose
- 1800.2120 Program Considerations
- 1800.2130 Utilization of Confidential Sources
- 1800.2140 Provision of Funds
- 1800.2150 Operational Procedures
- 1800.2160 Reporting and Evidence
- 1800.2170 Cooperation with Local Law Enforcement Agencies

- 1800.EXHIBIT A Youth Participant Consent Form
- 1800.EXHIBIT B Underage Gambling Participant Acknowledgment

AUTHORITY: Implementing and authorized by Section 78(a)(3) of the Video Gaming Act [230 ILCS 40/78(a)(3)].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010; emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days; emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011; emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150 days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; amended by emergency rulemaking at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency expired December 2, 2012; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012; amended at 36 Ill. Reg. 15112, effective October 1, 2012; amended at 36 Ill. Reg. 17033, effective November 21, 2012; expedited correction at 39 Ill. Reg. 8183, effective November 21, 2012; amended at 36 Ill. Reg. 18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013; amended at 37 Ill. Reg. 4892, effective April 1, 2013; amended at 37 Ill. Reg. 7750, effective May 23, 2013; amended at 37 Ill. Reg. 18843, effective November 8, 2013; emergency amendment at 37 Ill. Reg. 19882, effective November 26, 2013, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 38 Ill. Reg. 3384, effective January 14, 2014; suspension withdrawn at 38 Ill. Reg. 5897; emergency repeal of emergency amendment at 38 Ill. Reg. 7337, effective March 12, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 849, effective December 27, 2013; amended at 38 Ill. Reg. 14275, effective June 30, 2014; amended at 38 Ill. Reg. 19919, effective October 2, 2014; amended at 39 Ill. Reg. 5401, effective March

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27, 2015; amended at 39 Ill. Reg. 5593, effective April 1, 2015; amended at 40 Ill. Reg. 2952, effective January 27, 2016; amended at 40 Ill. Reg. 8760, effective June 14, 2016; amended at 40 Ill. Reg. 12762, effective August 19, 2016; amended at 40 Ill. Reg. 15131, effective October 18, 2016; emergency amendment at 41 Ill. Reg. 2696, effective February 7, 2017, for a maximum of 150 days; amended at 41 Ill. Reg. 2939, effective February 24, 2017; amended at 41 Ill. Reg. 4499, effective April 14, 2017; amended at 41 Ill. Reg. 10300, effective July 13, 2017; amended at 42 Ill. Reg. 3126, effective February 2, 2018; amended at 42 Ill. Reg. 3735, effective February 6, 2018; emergency amendment at 43 Ill. Reg. 9261, effective August 13, 2019, for a maximum of 150 days; emergency amendment, except for the definition of "in-location bonus jackpot game" or "in-location progressive game" and the definition of "progressive jackpot" in Section 1800.110 and except for Section 1800.250(x), suspended at 43 Ill. Reg. 11061, effective September 18, 2019; amended at 44 Ill. Reg. 489, effective December 27, 2019; emergency amendment at 43 Ill. Reg. 9788, effective August 19, 2019, for a maximum of 150 days; amended at 44 Ill. Reg. 1961, effective December 31, 2019; emergency amendment at 43 Ill. Reg. 11688, effective September 26, 2019, for a maximum of 150 days; amended at 44 Ill. Reg. 3205, effective February 7, 2020; emergency amendment at 43 Ill. Reg. 13464, effective November 8, 2019, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 43 Ill. Reg. 13479, effective November 12, 2019; suspension withdrawn at 44 Ill. Reg. 3583; emergency amendment to emergency rule at 44 Ill. Reg. 3568, effective February 21, 2020, for the remainder of the 150 days; amended at 44 Ill. Reg. 10891, effective June 10, 2020; amended at 43 Ill. Reg. 14099, effective November 21, 2019; emergency amendment at 44 Ill. Reg. 10193, effective May 27, 2020, for a maximum of 150 days; amended at 44 Ill. Reg. 16454, effective September 25, 2020; emergency amendment at 44 Ill. Reg. 11104, effective June 15, 2020, for a maximum of 150 days; emergency expired November 11, 2020; amended at 44 Ill. Reg. 11134, effective June 22, 2020; emergency amendment at 44 Ill. Reg. 13463, effective July 28, 2020, for a maximum of 150 days; emergency expired December 24, 2020; amended at 45 Ill. Reg. 3424, effective March 8, 2021; amended at 45 Ill. Reg. 5375, effective April 12, 2021; amended at 45 Ill. Reg. 9971, effective July 20, 2021; emergency amendment at 45 Ill. Reg. 10074, effective July 26, 2021, for a maximum of 150 days; emergency expired December 22, 2021; amended at 46 Ill. Reg. 5530, effective March 16, 2022; amended at 46 Ill. Reg. 6916, effective April 25, 2022; amended at 46 Ill. Reg. 17107, effective September 28, 2022; amended at 46 Ill. Reg. 18049, effective October 31, 2022; amended at 47 Ill. Reg. 2682, effective February 10, 2023; amended at 47 Ill. Reg. 16355, effective November 1, 2023; amended at 48 Ill. Reg. _____, effective _____.

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section 1800.370 Deactivation of Video Gaming Terminals

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- a) The Administrator will deactivate a licensed video gaming location's video gaming terminals if:
 - 1) The licensed video gaming location failed to timely pay a sum owed to the Board;
 - 2) The licensed video gaming location's State or local liquor license was suspended, revoked, or expired; or
 - 3) The licensed video gaming location failed to comply with a valid Board order.
- b) Before the Administrator may deactivate a licensed video gaming location's video gaming terminals, the Administrator shall provide written notice to the licensed video gaming location stating that the terminals may be deactivated and identifying the basis for the deactivation. The deactivation notice shall be sent to all entities listed in the licensed video gaming location's license application no less than five days prior to the noticed deactivation.
- c) A licensed video gaming location may avoid deactivation by:
 - 1) Curing the basis for deactivation within five days of receiving the deactivation notice; or
 - 2) Establishing a prima facie case that the basis for deactivation is the result of an error or defect the licensed video gaming location did not cause.
- d) If the Administrator finds that the licensed video gaming location has failed to establish grounds to avoid deactivation under subsection (c), the Administrator will deactivate the licensed video gaming location's video gaming terminals.
- e) If a licensed video gaming location's video gaming terminals are deactivated, the licensee shall cure the basis for the deactivation and pay a reactivation fee before the video gaming terminals are reactivated. The reactivation fee shall be the amount equal to the licensed video gaming location's annual license fee and shall be assessed per video gaming terminal.
 - 1) A licensed video gaming location is excused from paying the reactivation fee if it can establish by clear and convincing evidence that it did not cause the basis for the deactivation.

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- 2) The Administrator shall reactivate the video gaming terminals within five days after the licensed video gaming location has both cured the basis for the deactivation and paid the reactivation fee, if applicable.
- f) The Administrator may appoint an Administrative Law Judge if the Administrator determines that a hearing is warranted to determine whether the basis for the deactivation is the result of an error or defect the licensed video gaming location did not cause or whether the licensed video gaming location has cured the basis for deactivation. If a hearing is commenced, it shall proceed under Subpart F.
- 1) The sole issues at hearing shall be limited to whether the basis for deactivation is the result of an error or defect the licensed video gaming location did not cause or whether the licensee has cured the basis for the deactivation.
 - 2) The licensed video gaming location shall bear the burden of proof at all times and shall have the affirmative responsibility of establishing its case by clear and convincing evidence.

(Source: Added at 48 Ill. Reg. _____, effective _____)