

Senate Bill 7EX2

By: Senators Beatty of the 47<sup>th</sup>, Mullis of the 53<sup>rd</sup>, Harp of the 16<sup>th</sup>, Hamrick of the 30<sup>th</sup>, Paul of the 40<sup>th</sup> and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia  
2 Annotated, relating to crimes involving gambling, so as to prohibit as gambling devices  
3 certain slot machines, card and chance game machines, matchup and lineup game machines,  
4 and other similar machines; to define the term "gambling device" so as to carry out the  
5 foregoing; to provide that such gambling devices shall not be permitted under provisions  
6 legalizing certain amusement devices; to prohibit the award of certain items as prizes for  
7 playing certain games or devices for which prizes may otherwise be awarded; to prescribe  
8 and increase criminal penalties for violations relating to such games and devices; to amend  
9 Code Section 16-14-3, relating to definitions applicable to the "Georgia RICO (Racketeer  
10 Influenced and Corrupt Organizations) Act," so as to provide that certain violations may  
11 constitute racketeering activity; to amend Chapter 17 of Title 48 of the Official Code of  
12 Georgia Annotated, relating to licensing and taxation of coin operated amusement machines,  
13 so as to make a conforming change; to provide that local governing authorities shall be  
14 authorized to regulate and prohibit the operation of coin operated amusement machines; to  
15 provide for related matters; to provide an effective date; to repeal conflicting laws; and for  
16 other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 style="text-align:center">**SECTION 1.**

19 Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,  
20 relating to crimes involving gambling, is amended in Code Section 16-12-20, relating to  
21 definitions, by striking paragraph (2) and inserting in its place a new paragraph to read as  
22 follows:

23 "(2) 'Gambling device' means:

24 (A) ~~any~~ Any contrivance which for a consideration affords the player an opportunity  
25 to obtain money or other thing of value, the award of which is determined by chance

1 even though accompanied by some skill, whether or not the prize is automatically paid  
2 by contrivance;

3 (B) Any slot machine or any video game machine or device for the play of poker,  
4 blackjack, keno, lotto, bingo, or craps or any simulation or variation thereof; or

5 (C) Any matchup or lineup game machine or device which requires the player to use  
6 skill stops to complete the game.

7 Any item described in subparagraph (B) or (C) of this paragraph shall be a prohibited  
8 gambling device subject to and prohibited by this part, notwithstanding any inference to  
9 the contrary in any other law of this state."

## 10 SECTION 2.

11 Said part is further amended by striking subsection (b) of Code Section 16-12-35, relating  
12 to applicability of said part, and inserting in its place a new subsection to read as follows:

13 "(b) Nothing in this part shall apply to a coin operated game or device designed and  
14 manufactured for bona fide amusement purposes only which may by application of some  
15 skill entitle the player to earn replays of the game or device at no additional cost and to  
16 discharge the accumulated free replays only by reactivating the game or device for each  
17 accumulated free replay or by reactivating the game or device for a portion or all of the  
18 accumulated free plays in a single play. This subsection shall not apply, however, to any  
19 game or device classified by the United States government as requiring a federal gaming  
20 tax stamp under applicable provisions of the Internal Revenue Code or any item described  
21 as a gambling device in subparagraph (B) or (C) of paragraph (2) of Code Section  
22 16-12-20."

## 23 SECTION 3.

24 Said part is further amended by striking paragraph (1) of subsection (d) of said Code Section  
25 16-12-35 and inserting in its place a new paragraph to read as follows:

26 "(d) (1) Nothing in this part shall apply to a coin operated game or device designed and  
27 manufactured only for bona fide amusement purposes which involves some skill in its  
28 operation if it rewards the player exclusively with:

29 (A) Free replays;

30 (B) Merchandise limited to noncash merchandise, prizes, toys, gift certificates, or  
31 novelties, each of which has a wholesale value of not more than \$5.00 received for a  
32 single play of the game or device;

33 (C) Points, tokens, vouchers, tickets, or other evidence of winnings which may be  
34 exchanged for rewards set out in subparagraph (A) of this paragraph or subparagraph

1 (B) of this paragraph or a combination of rewards set out in subparagraph (A) and  
2 subparagraph (B) of this paragraph; or

3 (D) Any combination of rewards set out in two or more of subparagraph (A), (B), or  
4 (C) of this paragraph.

5 This subsection shall not apply, however, to any game or device classified by the United  
6 States government as requiring a federal gaming stamp under applicable provisions of the  
7 Internal Revenue Code or any item described as a gambling device in subparagraph (B)  
8 or (C) of paragraph (2) of Code Section 16-12-20."

#### 9 SECTION 4.

10 Said part is further amended by striking subsections (e), (f), and (g) of said Code Section  
11 16-12-35 and inserting in their place new subsections (e) through (h) to read as follows:

12 "(e) Any person who gives to any other person money for free replays on coin operated  
13 games or devices described in subsection (b), (c), or (d) of this Code section shall be guilty  
14 of ~~a misdemeanor~~ the felony of commercial gambling and upon conviction be punished by  
15 imprisonment for not less than one nor more than five years or by a fine not to exceed  
16 \$20,000.00, or both.

17 (f) Any person owning or possessing an amusement game or device described in  
18 subsection (c) or (d) of this Code section or any person employed by or acting on behalf  
19 of any such person who gives to any other person money for any noncash merchandise,  
20 prize, toy, gift certificate, or novelty received as a reward in playing any such amusement  
21 game or device shall be guilty of ~~a misdemeanor~~ the felony of commercial gambling and  
22 upon conviction be punished by imprisonment for not less than one nor more than five  
23 years or by a fine not to exceed \$20,000.00, or both.

24 (g) Any person owning or possessing an amusement game or device described in  
25 subsection (b), (c), or (d) of this Code section or any person employed by or acting on  
26 behalf of any such person who gives to any other person money as a reward for the  
27 successful play or winning of any such amusement game or device shall be guilty of a  
28 ~~misdemeanor of a high and aggravated nature~~ the felony of commercial gambling and upon  
29 conviction be punished by imprisonment for not less than one nor more than five years or  
30 by a fine not to exceed \$20,000.00, or both.

31 (h) The merchandise, prizes, toys, gift certificates, novelties, or rewards which may be  
32 awarded under subsection (b), (c), or (d) of this Code section may not include or be  
33 redeemable or exchangeable for:

34 (1) Any lottery ticket or other item enabling participation in any lottery;

1 (2) Any gift certificate, voucher, or similar item which is redeemable or exchangeable  
 2 in any manner at any premises other than the premises at which the coin operated game  
 3 or device is located;

4 (3) Any alcoholic beverage;

5 (4) Any tobacco product; or

6 (5) Any motor fuel.

7 Any person owning or possessing an amusement game or device described in subsection  
 8 (b), (c), or (d) of this Code section or any person employed by or acting on behalf of any  
 9 such person who gives to any other person any item described in this subsection as a  
 10 reward for the successful play or winning of any such amusement game or device shall be  
 11 guilty of a misdemeanor of a high and aggravated nature."

#### 12 SECTION 5.

13 Code Section 16-14-3, relating to definitions applicable to the "Georgia RICO (Racketeer  
 14 Influenced and Corrupt Organizations) Act," is amended by striking division (9)(A)(xvii) and  
 15 inserting in its place a new division to read as follows:

16 "(xvii) Code Section 16-12-22 or 16-12-35, relating to commercial gambling;"

#### 17 SECTION 6.

18 Chapter 17 of Title 48 of the Official Code of Georgia Annotated, relating to licensing and  
 19 taxation of coin operated amusement machines, is amended in Code Section 48-17-1, relating  
 20 to definitions, by striking subdivision (2)(A)(xxii) and inserting in its place the following:

21 ~~"(xxii) Matchup or lineup games which require the player to use skill stops to~~  
 22 ~~complete the game~~ Reserved;"

#### 23 SECTION 7.

24 Said chapter is further amended by inserting a new Code section to be designated Code  
 25 Section 48-17-16 to read as follows:

26 "48-17-16.

27 The governing authority of any county or municipality is authorized to enact and enforce  
 28 one or more ordinances regulating, restricting, or prohibiting the operation of bona fide  
 29 coin operated amusement machines and other similar machines and devices. Without  
 30 limiting the generality of the foregoing it is specifically provided that such an ordinance  
 31 may prohibit entirely the operation of one or more types of bona fide coin operated  
 32 amusement machines or other similar machines and devices. Neither this chapter nor any  
 33 other law of this state shall preempt or prohibit such local ordinances."

