

Senate Bill 454

By: Senators Douglas of the 17th and Cowser of the 46th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 17 of Title 48 of the Official Code of Georgia Annotated, relating to coin
 2 operated amusement machines, so as to revise definitions; to provide for classes of machines,
 3 location licenses, fees, procedures for collection and refunds, display of certificates, contents
 4 of certificates and stickers, duplicate permits, and late fees; to provide for the terms and
 5 conditions of location licenses and annual fees for additional machines; to provide that
 6 applications for licenses and permits are open to public inspection; to provide for issuance,
 7 renewal, denial, suspension, and revocation of such licenses and permits; to provide for the
 8 continued validity of prior existing obligations to the state; to provide that this Act shall not
 9 affect offenses committed or prosecutions begun under preexisting law; to change provisions
 10 relating to the maximum percentage of income derived from bona fide coin operated
 11 amusement machines; to provide for penalties for violations by business owners or operators;
 12 to amend Code Section 50-13-2 of the Official Code of Georgia Annotated, relating to
 13 definitions relative to administrative procedure, so as to revise a definition; to provide for
 14 related matters; to provide an effective date; to repeal conflicting laws; and for other
 15 purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Chapter 17 of Title 48 of the Official Code of Georgia Annotated, relating to taxation of bona
 19 fide coin operated amusement machines, is amended by adding new paragraphs to Code
 20 Section 48-17-1, relating to definitions, to read as follows:

21 "(2.2) 'Class A machine' means a bona fide coin operated amusement machine that is not
 22 a Class B machine and:

23 (A) Provides no reward to a successful player; or

24 (B) Rewards a successful player with free replays or additional time to play.

25 (2.3) 'Class B machine' means a bona fide coin operated amusement machine that
 26 rewards a successful player with any combination of items listed in
 27 subparagraphs (d)(1)(B) and (d)(1)(C) of Code Section 16-12-35."

28 "(3.1) 'Location license' means the initial and annually renewed license which every
 29 business owner or business operator must purchase and display in the location where one
 30 or more bona fide coin operated amusement machines are available for commercial use
 31 by the public for play in order to operate legally any such machine in this state.

32 (3.2) 'Location license fee' means the fee paid to obtain the location license."

33 "(7.1) 'Single play' or 'one play' means the completion of a sequence of a game, or replay
 34 of a game, where the player receives a score and from the score the player can secure free
 35 replays, merchandise, points, tokens, vouchers, tickets, or other evidence of winnings as
 36 set forth in subsection (c) or (d) of Code Section 16-12-35. A player may, but is not
 37 required to, exchange a score for rewards permitted by subparagraphs (A), (B), (C), and
 38 (D) of paragraph (d)(1) of Code Section 16-12-35 after each play."

39 "(9) 'Slot machine or any simulation or variation thereof' means any contrivance which,
 40 for a consideration, affords the player an opportunity to obtain money or other thing of
 41 value, the award of which is determined solely by chance, whether or not a prize is
 42 automatically paid by the contrivance.

43 (10) 'Successful player' means an individual who wins on one or more plays of a bona
 44 fide coin operated amusement machine.

45 (11) 'Temporary location permit' means the permit which every business owner or
 46 business operator must purchase and display in the location where one or more bona fide
 47 coin operated amusement machines are available for commercial use by the public for
 48 play in order to operate legally the machine or machines in this state for seven days or
 49 less. Such temporary location permits shall be subject to the same regulations and
 50 conditions as location licenses."

51 **SECTION 2.**

52 Said chapter is further amended by revising Code Section 48-17-2, relating to license fees,
 53 as follows:

54 "48-17-2.

55 (a) Every owner, except an owner holding a bona fide coin operated amusement machine
 56 solely for personal use or resale, who offers others the opportunity to play for a charge,
 57 whether directly or indirectly, any bona fide coin operated amusement machine shall pay
 58 annual master license fees as follows:

59 (1) ~~Level one license.~~ For Class A machines:

60 (A) For five or fewer machines, the owner shall pay a master license fee of ~~\$250.00~~
 61 \$500.00.

62 ~~(B)~~ In the event such owner acquires a sixth or greater number of machines during a
 63 calendar year which require a certificate for lawful operation under this chapter so that

64 the total number of machines owned does not exceed 60 machines or more, such owner
65 shall pay an additional master license fee of ~~\$1,250.00~~ \$1,500.00;

66 ~~(2) Level two license. (A) For six or more machines but not more than 60 machines, the~~
67 ~~owner shall pay a master license fee of \$1,500.00.~~

68 (B) For six or more machines but not more than 60 machines, the owner shall pay a
69 master license fee of \$2,000.00. In the event such owner acquires a sixty-first or
70 greater number of machines during a calendar year which require a certificate for lawful
71 operation under this chapter, such owner shall pay an additional master license fee of
72 ~~\$1,000.00~~ \$1,500.00; or

73 ~~(3)(C) Level three license.~~ For 61 or more machines, the owner shall pay a master
74 license fee of ~~\$2,500.00~~ \$3,500.00; and

75 (2) For any number of Class B machines, the owner shall pay a master license fee of
76 \$5,000.00.

77 The cost of the license shall be paid to the commissioner by company check, cash, cashier's
78 check, or money order. Upon said payment, the commissioner shall issue a master license
79 certificate to the owner. The master license fee levied by this ~~chapter~~ Code section shall
80 be collected by the commissioner on an annual basis, ~~provided that an owner may purchase~~
81 ~~a six-month master license during the calendar year for \$175.00 for a level one license,~~
82 ~~\$1,050.00 for a level two license, or \$1,750.00 for a level three license~~ for the period from
83 July 1 to June 30. The commissioner may establish procedures for master license
84 collection and set due dates for these license payments. No refund or credit of the master
85 license charge levied by this ~~chapter~~ Code section may be allowed to any owner who
86 ceases the operation of bona fide coin operated amusement machines prior to the end of
87 any ~~calendar year~~ license or permit period.

88 (a.1) Every business owner or business operator shall pay an annual location license fee
89 for each bona fide coin operated amusement machine offered to the public for play. The
90 annual location license fee shall be \$25.00 for each Class A machine and \$125.00 for each
91 Class B machine. The annual location license fee levied by this Code section shall be
92 collected by the commissioner on an annual basis from July 1 to June 30. The location
93 license fee shall be paid to the commissioner by company check, cash, cashier's check, or
94 money order. Upon payment, the commissioner shall issue a location license certificate
95 that shall state the number of bona fide coin operated amusement machines permitted for
96 each class without further description or identification of specific machines. The
97 commissioner may establish procedures for location license fee collection and set due dates
98 for payment of such fees. No refund or credit of the location license fee shall be allowed
99 to any business owner or business operator who ceases to offer bona fide coin operated
100 amusement machines to the public for commercial use prior the end of any license period.

101 (b) A copy of an owner's master license and the business owner's or business operator's
 102 location license shall be prominently displayed at all locations where the owner ~~has~~ and
 103 business owner or business operator have bona fide coin operated amusement machines
 104 available for commercial use and for play by the public to evidence the payment of the ~~fee~~
 105 fees levied under this Code section.

106 (c) Each master license and each location license shall ~~not~~ list the name and address of the
 107 owner ~~but shall have a control number which corresponds with the control number issued~~
 108 ~~on the permit sticker to allow for effective monitoring of the licensing and permit system~~
 109 or business owner or business operator, as applicable.

110 (d) The commissioner may provide a duplicate original master license certificate or
 111 location license certificate if the original ~~master license~~ certificate has been lost, stolen, or
 112 destroyed. The fee for a duplicate original ~~master license~~ certificate is \$100.00. If the
 113 original ~~master license~~ certificate is lost, stolen, or destroyed, a sworn, written statement
 114 must be submitted explaining the circumstances by which the ~~master license~~ certificate was
 115 lost, stolen, or destroyed and including the number of the lost, stolen, or destroyed ~~master~~
 116 ~~license~~ certificate, if applicable, before a duplicate original ~~master license~~ certificate can
 117 be issued. A ~~master license~~ certificate for which a duplicate ~~master license~~ certificate has
 118 been issued is void.

119 (e) A ~~master~~ license or permit issued under this ~~chapter~~ Code section:

120 (1) Is effective for a single business entity;

121 (2) Vests no property or right in the ~~licensee~~ holder of the license or permit except to
 122 conduct the licensed or permitted business during the period the license or permit is in
 123 effect;

124 (3) Is nontransferable, nonassignable by and between owners or business owners and
 125 business operators, and not subject to execution; and

126 (4) Expires upon the death of an individual ~~licensee~~ holder of a license or permit or upon
 127 the dissolution of any other ~~licensee~~ holder of a license or permit.

128 (f) An application for the renewal of a license or permit must be made to the commissioner
 129 by ~~December~~ June 1 of each year.

130 (g) Acceptance of a ~~master~~ license or permit issued under this ~~chapter~~ Code section
 131 constitutes consent by the licensee and the business owner or business operator of the
 132 business where bona fide coin operated amusement machines are available for commercial
 133 use and for play by the public that the commissioner or ~~his~~ the commissioner's agents may
 134 freely enter the ~~licensed~~ business premises where the licensed and permitted machines are
 135 located during normal business hours for the purpose of ensuring compliance with this
 136 chapter.

137 (h) An application for a ~~master~~ license or permit to do business under this chapter shall
 138 contain a complete statement regarding the ownership of the business to be licensed or the
 139 business where the permitted machines are to be located. This statement of ownership shall
 140 specify the same information that is required ~~of~~ by the application to secure a sales tax
 141 number for the State of Georgia.

142 (i) ~~The~~ An application for a master license shall be accompanied by either the annual or
 143 semiannual fee plus the required permit fee due for each machine. Additional per machine
 144 permits can be purchased during the year if needed by the owner. An application for a
 145 location license shall be accompanied by the appropriate fee.

146 (j) ~~The statement of ownership information which is contained in the application will be~~
 147 ~~treated in the same manner as sales tax information records maintained by the department~~
 148 An application is subject to public inspection.

149 (k) A renewal application filed on or after ~~January~~ July 1, but before the ~~master~~ license
 150 expires, shall be accompanied by a late fee of \$125.00. ~~If an owner's master license has~~
 151 ~~been expired for more than 90 days, the owner may not renew the master license.~~ A master
 152 license or location license that has been expired for more than 90 days may not be renewed.

153 In such a case, the owner shall obtain a new master license or the business owner or
 154 business operator shall obtain a new location license, as applicable, by complying with the
 155 requirements and procedures for obtaining an original master license or location license.

156 (l) ~~An owner~~ A holder of a license who properly completes the application and remits all
 157 fees with it by the due date may continue to operate bona fide coin operated amusement
 158 machines after the expiration date if its license or permit renewal has not been issued,
 159 unless the ~~licensee~~ holder of the license is notified by the commissioner prior to the ~~license~~
 160 expiration date of a problem with the ~~license~~ renewal.

161 (m) Holders of location licenses and temporary location permits shall be subject to the
 162 same provisions of this chapter with regard to refunds, license renewals, license
 163 suspensions, and license revocations as are holders of master licenses."

164 SECTION 3.

165 Said chapter is further amended by revising Code Section 48-17-9, relating to payment and
 166 collection of annual permit fee, as follows:

167 "48-17-9.

168 (a) Every owner, except an owner holding a coin operated amusement machine solely for
 169 personal use or resale, who offers others the opportunity to play for a charge, whether
 170 direct or indirect, any bona fide coin operated amusement machine shall pay a ~~uniform~~ an
 171 annual permit fee ~~of \$25.00 per~~ for each bona fide coin operated amusement machine in
 172 the amount of \$25.00 for each Class A machine and \$125.00 for each Class B machine.

173 The fee shall be paid to the commissioner by company check, cash, cashier's check, or
 174 money order. Upon payment, the commissioner shall issue a sticker for each ~~\$25.00~~
 175 ~~payment for each~~ bona fide coin operated amusement machine. The annual fees levied by
 176 this chapter ~~will~~ shall be collected by the commissioner on an annual basis for the period
 177 from July 1 to June 30. The commissioner may establish procedures for annual collection
 178 and set due dates for the fee payments. No refund or credit of the annual fee levied by this
 179 chapter shall be allowed to any owner who ceases the exhibition or display of any bona fide
 180 coin operated amusement machine prior to the end of any ~~calendar year~~ license or permit
 181 period.

182 (b) The sticker issued by the commissioner to evidence the payment of the fee under this
 183 Code section shall be securely attached to the machine. Owners may transfer stickers from
 184 one machine to another in the same class and from location to location so long as all
 185 machines in commercial use available for play by the public have a sticker of the correct
 186 class and the owner uses the stickers only for machines that it owns.

187 (c) Each permit sticker shall not list the name of the owner but shall have a control number
 188 which corresponds with the control number issued on the master license certificate to allow
 189 for effective monitoring of the licensing and permit system. Permit stickers are only
 190 required for bona fide coin operated amusement machines in commercial use available to
 191 the public for play at a location.

192 (d) The commissioner may provide a duplicate permit sticker if a valid permit sticker has
 193 been lost, stolen, or destroyed. The fee for a duplicate permit sticker shall be \$10.00. If
 194 a permit sticker is lost, stolen, or destroyed, a sworn, written statement must be submitted
 195 explaining the circumstances by which the permit sticker was lost, stolen, or destroyed and
 196 including the number of the lost, stolen, or destroyed permit before a replacement permit
 197 can be issued. A permit for which a duplicate permit sticker has been issued is void."

198 SECTION 4.

199 Said chapter is further amended by revising Code Section 48-17-11, relating to permit fees
 200 for additional machines, as follows:

201 "48-17-11.

202 If an owner purchases or receives additional bona fide coin operated amusement machines
 203 during the calendar year, the ~~\$25.00~~ applicable annual permit fee shall be paid to the
 204 commissioner and the sticker shall be affixed to the machine ~~or placed at the location~~
 205 ~~where the machine is located~~ before the machine may be legally operated. A penalty fee
 206 ~~of \$50.00~~ equal to twice the applicable annual permit fee shall be assessed by the
 207 commissioner for every machine in operation without a permit sticker."

208 **SECTION 5.**

209 Said chapter is further amended by revising Code Section 48-17-14, relating to validity of
 210 prior existing obligations to state, as follows:

211 "48-17-14.

212 (a) All taxes, fees, penalties, and interest accruing to the State of Georgia under any other
 213 provision of this title as it existed prior to ~~January 1, 1993~~ July 1, 2010, shall be and remain
 214 valid and binding obligations to the State of Georgia for all taxes, penalties, and interest
 215 accruing under the provisions of prior or preexisting laws and all such taxes, penalties, and
 216 interest now or hereafter becoming delinquent to the State of Georgia prior to ~~January 1,~~
 217 ~~1993~~ July 1, 2010, are expressly preserved and declared to be legal and valid obligations
 218 to the state.

219 (b) The enactment and amendment of this chapter shall not affect offenses committed or
 220 prosecutions begun under any preexisting law, but any such offenses or prosecutions may
 221 be conducted under the law as it existed at the time of the commission of the offense.

222 (c) Nothing in this chapter shall be construed or have the effect to license, permit,
 223 authorize, or legalize any machine, device, table, or bona fide coin operated amusement
 224 machine the keeping, exhibition, operation, display, or maintenance of which is in violation
 225 of the laws or Constitution of this state."

226 **SECTION 6.**

227 Said chapter is further amended by revising Code Section 48-17-15, relating to limitation on
 228 percent of annual income derived from machines, as follows:

229 "48-17-15.

230 (a) As used in this Code section, the term:

231 (1) 'Amusement or recreational establishment' means an open-air establishment
 232 frequented by the public for amusement or recreation. Such an establishment shall be in
 233 a licensed fixed location located in this state and which has been in operation for at least
 234 35 years.

235 (2) 'Business location' means any structure, vehicle, or establishment where a business
 236 is conducted.

237 (3) 'Gross retail receipts' means the total revenue derived by a business at any one
 238 business location from the sale of goods and services and the commission earned at any
 239 one business location on the sale of goods and services but shall not include revenue from
 240 the sale of goods or services for which the business will receive only a commission.
 241 Revenue from the sale of goods and services at wholesale shall not be included.

242 ~~(a)~~(b)(1) No business owner or business operator shall derive more than 50 percent of
 243 such business owner's or business operator's ~~annual income from~~ monthly gross retail

244 receipts for the business location in which the Class B bona fide coin operated
 245 amusement machine or machines are situated from such Class B bona fide coin operated
 246 amusement machines that provide for noncash redemption as described in subsection (c)
 247 or (d) of Code Section 16-12-35.

248 (2) Except as authorized by a local ordinance, no business owner or business operator
 249 shall offer more than nine Class B bona fide coin operated amusement machines to the
 250 public for play in the same business location; provided, however, that this limitation shall
 251 not apply to an amusement or recreational establishment.

252 (c) For each business location which offers to the public one or more Class B bona fide
 253 coin operated amusement machines, the business owner or business operator shall prepare
 254 a monthly verified report setting out separately the gross retail receipts from the Class B
 255 bona fide coin operated amusement machines and the gross retail receipts for the business
 256 location. Upon request, the business owner or business operator shall supply such monthly
 257 reports to the commissioner. The department shall be authorized to audit any records for
 258 any such business location.

259 ~~(b)~~(d) In accordance with the provisions of Code Section 48-17-4 and the procedures set
 260 out in Code Sections 48-17-5 and 48-17-6, the commissioner may fine an applicant or
 261 holder of a license, refuse to issue or renew a location license or master license, or may
 262 revoke or suspend a location license or master license for single or repeated violations of
 263 subsection (a) (b) of this Code section.

264 (e) A business owner or business operator shall report the information prescribed in this
 265 Code section in the form required by the commissioner. Such report shall be submitted in
 266 an electronic format approved by the commissioner."

267 **SECTION 7.**

268 Said chapter is further amended by adding new Code sections to read as follows:

269 "48-17-16.

270 (a) For single or repeated violations of this chapter by a business owner or business
 271 operator who offers one or more bona fide coin operated amusement machines for play by
 272 the public, the commissioner may impose the following penalties on such a business owner
 273 or business operator:

274 (1) A civil fine in an amount specified in rules and regulations promulgated in
 275 accordance with this chapter; or

276 (2) For a third or subsequent offense, a suspension or revocation of the privilege of
 277 offering one or more bona fide coin operated amusement machines for play by the public.

278 (b) Before a penalty is imposed in accordance with this Code section, a business owner or
 279 business operator shall be entitled to at least 30 days' written notice and, if requested, a

280 hearing. Such written notice shall be served in the manner provided for written notices to
 281 applicants and holders of licenses in subsection (b) of Code Section 48-17-5, and an order
 282 imposing a penalty shall be delivered in the manner provided for delivery of the
 283 commissioner's orders to applicants for licenses and holders of licenses in Code
 284 Section 48-17-6.

285 (c) In the case of a suspension or revocation in accordance with this Code section, the
 286 commissioner shall require the business owner or business operator to post a notice in the
 287 business location setting out the period of the suspension or revocation. No applicant or
 288 holder of a license or permit shall allow a bona fide coin operated amusement machine
 289 under the control of such applicant or holder of a license or permit to be placed in a
 290 business location owned or operated by a business owner or business operator who has
 291 been penalized by a suspension or revocation during the period of the suspension or
 292 revocation."

293 SECTION 8.

294 Code Section 50-13-2 of the Official Code of Georgia Annotated, relating to definitions
 295 relative to administrative procedure, is amended by revising paragraph (1) as follows:

296 "(1) 'Agency' means each state board, bureau, commission, department, activity, or
 297 officer authorized by law expressly to make rules and regulations or to determine
 298 contested cases, except the General Assembly; the judiciary; the Governor; the State
 299 Board of Pardons and Paroles; the State Financing and Investment Commission; the State
 300 Properties Commission; the Board of Bar Examiners; the Board of Corrections and its
 301 penal institutions; the State Board of Workers' Compensation; all public authorities
 302 except as otherwise expressly provided by law; the State Personnel Board (Merit
 303 System); the Department of Administrative Services or commissioner of administrative
 304 services; the Technical College System of Georgia; the Department of Revenue when
 305 conducting hearings relating to alcoholic beverages or relating to bona fide coin operated
 306 amusement machines or any violations relating thereto; the Georgia Tobacco Community
 307 Development Board; the Georgia Higher Education Savings Plan; any school, college,
 308 hospital, or other such educational, eleemosynary, or charitable institution; or any agency
 309 when its action is concerned with the military or naval affairs of this state. The term
 310 'agency' shall include the State Board of Education and Department of Education, subject
 311 to the following qualifications:

312 (A) Subject to the limitations of subparagraph (B) of this paragraph, all otherwise valid
 313 rules adopted by the State Board of Education and Department of Education prior to
 314 January 1, 1990, are ratified and validated and shall be effective until January 1, 1991,

315 whether or not such rules were adopted in compliance with the requirements of this
316 chapter; and

317 (B) Effective January 1, 1991, any rule of the State Board of Education or Department
318 of Education which has not been proposed, submitted, and adopted in accordance with
319 the requirements of this chapter shall be void and of no effect."

320 **SECTION 9.**

321 This Act shall become effective on July 1, 2010.

322 **SECTION 10.**

323 All laws and parts of laws in conflict with this Act are repealed.