

House Bill 293

By: Representatives Lindsey of the 54th, Lucas of the 139th, Ehrhart of the 36th, Barnard of the 166th, Oliver of the 83rd, and others

A BILL TO BE ENTITLED

AN ACT

1 To revise provisions relating to bona fide coin operated amusement machines; to amend
2 Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
3 relating to gambling, so as to change the definition of a gambling device; to clarify that
4 provisions relating to the possession, manufacture, or transfer of gambling devices are not
5 applicable to certain materials, equipment, devices, or machines; to revise a provision
6 relating to seizure and destruction of gambling devices; to provide that provisions relating
7 to seizure and disposal of property apply to gambling devices and alleged gambling devices;
8 to provide for seizure of gambling devices and alleged gambling devices in certain
9 circumstances; to revise definitions and requirements relating to bona fide coin operated
10 amusement machines; to delete a provision relating to amusement machines that provide only
11 free replays as reward for successful play; to provide that rewards for successful play of such
12 machines shall not be exchangeable or redeemable for cash, alcoholic beverages, tobacco
13 products, or firearms; to change provisions defining unlawful acts relating to such machines
14 and penalties therefor; to change provisions relating to exchange or redemption of evidence
15 of winnings; to provide for certain language on gift certificates awarded for successful play
16 and for penalties; to limit the number of such machines to nine in a business location and to
17 provide for exceptions and penalties; to provide that statutes prohibiting gambling do not
18 apply to certain games at certain amusement or recreational establishments; to amend
19 Chapter 17 of Title 48 of the Official Code of Georgia Annotated, relating to coin operated
20 amusement machines, so as to revise definitions; to provide that video or mechanical games,
21 machines, or devices for the play of card games or variations of such games are not bona fide
22 coin operated amusement machines; to provide for the powers and duties of the state revenue
23 commissioner; to provide for rules and regulations; to provide for classes of machines,
24 location permits, fees, procedures for collection and refunds, display of certificates, contents
25 of certificates and stickers, duplicate permits, and late fees; to provide for the terms and
26 conditions of location permits and annual fees for additional machines; to provide that
27 applications for licenses and permits are open to public inspection; to provide for issuance,
28 renewal, denial, suspension, and revocation of such permits; to provide for hearings and

29 delivery of certain orders of the commissioner; to provide for the continued validity of prior
 30 existing obligations to the state; to provide that this Act shall not affect offenses committed
 31 or prosecutions begun under preexisting law; to change provisions relating to the maximum
 32 percentage of income derived from bona fide coin operated amusement machines; to provide
 33 for penalties for business owners or operators in certain circumstances; to provide for
 34 regulation of bona fide coin operated amusement machines by counties and municipal
 35 corporations in certain circumstances; to provide a list of authorized provisions for an
 36 ordinance of a local government; to amend Code Section 50-18-72 of the Official Code of
 37 Georgia Annotated, relating to when public disclosure of public records is not required, so
 38 as to provide an exemption from public inspection for records of names and addresses of
 39 persons or entities holding location permits; to provide that such records may be inspected
 40 by representatives of law enforcement agencies and local governments; to provide that this
 41 Act shall not be construed to prohibit the offering of certain lottery games; to provide for
 42 related matters; to provide an effective date; to repeal conflicting laws; and for other
 43 purposes.

44 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

45 **SECTION 1.**

46 Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
 47 relating to gambling, is amended by revising paragraph (2) of Code Section 16-12-20,
 48 relating to definitions, as follows:

49 "(2) 'Gambling device' means:

50 ~~(A) Any any contrivance which for a consideration affords the player an opportunity~~
 51 ~~to obtain money or other thing of value, the award of which is determined by chance~~
 52 ~~even though accompanied by some skill, whether or not the prize is automatically paid~~
 53 ~~by contrivance; provided, however, that a bona fide coin operated amusement machine,~~
 54 ~~as defined in Code Section 48-17-1, is not a gambling device if the machine provides~~
 55 ~~rewards for successful play of such machine in compliance with the provisions of Code~~
 56 ~~Section 16-12-35.~~

57 ~~(B) Any slot machine or any simulation or variation thereof;~~

58 ~~(C) Any matchup or lineup game machine or device, operated for any consideration,~~
 59 ~~in which two or more numerals, symbols, letters, or icons align in a winning~~
 60 ~~combination on one or more lines vertically, horizontally, diagonally, or otherwise,~~
 61 ~~without assistance by the player. Use of skill stops shall not be considered assistance~~
 62 ~~by the player; or~~

63 ~~(D) Any video game machine or device, operated for any consideration, for the play~~
 64 ~~of poker, blackjack, any other card game, or keno or any simulation or variation of any~~
 65 ~~of the foregoing, including, but not limited to, any game in which numerals, numbers,~~
 66 ~~or any pictures, representations, or symbols are used as an equivalent or substitute for~~
 67 ~~cards in the conduct of such game.~~

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

71 SECTION 2.

72 Said part is further amended by revising Code Section 16-12-24, relating to possession,
 73 manufacture, or transfer of gambling device or parts, by adding a new subsection to read as
 74 follows:

75 "(c) In accordance with Code Section 16-12-35, this Code section shall not apply to the
 76 manufacturing, processing, selling, possessing, or transporting of:

77 (1) Any printed materials, equipment, devices, or other materials used or designated for
 78 use in a legally authorized lottery;

79 (2) Any gaming equipment, devices, or other materials used or designated for use only
 80 in jurisdictions in which the use of such items is legal; and

81 (3) Any bona fide coin operated amusement machine, as defined in Code
 82 Section 48-17-1, provided that the machine and any rewards provided by the machine for
 83 successful play of the machine do not violate the provisions of Code Section 16-12-35."

84 SECTION 3.

85 Said part is further amended by revising Code Section 16-12-30, relating to seizure and
 86 destruction of gambling devices, as follows:

87 "16-12-30.

88 (a) Except as provided in subsection (b) of Code Section 16-12-24, ~~every gambling device~~
 89 ~~is declared to be contraband and subject to seizure and confiscation by any state or local~~
 90 ~~authority within whose jurisdiction the same may be found~~ a game, machine, or device that
 91 is or is alleged or believed to be a gambling device may be seized by a state or local law
 92 enforcement authority within whose jurisdiction such alleged gambling device may be
 93 found. Every such seizure shall be subject to the provisions of Code Section 16-12-32.

94 (b) ~~At such time as there shall be a final judgment entered in any case or cases in which~~
 95 ~~a seized gambling device is necessary evidence or at such time as the state shall determine~~
 96 ~~that the continued physical existence of the seized gambling device is no longer necessary,~~
 97 ~~the same shall be turned over by that person having custody of the device to the sheriff of~~

98 ~~the county wherein the device was confiscated. The sheriff shall within ten days after~~
 99 ~~receiving the device destroy the same in the presence of the district attorney of the circuit~~
 100 ~~in which such county is located and shall forward to the state revenue commissioner a~~
 101 ~~certificate so stating which shall include the serial number of the device so destroyed."~~

102 SECTION 4.

103 Said part is further amended by revising subsection (a) of Code Section 16-12-32, relating
 104 to seizure and disposition of property used in or derived from violation of article, as follows:

105 "(a) As used in this Code section, 'property' means any personal property of any type,
 106 tangible or intangible, including but not limited to vehicles, conveyances, aircraft,
 107 watercraft, funds, other things of value or choses in action or any interest in such property,
 108 ~~but shall not include a gambling device subject to seizure and destruction under Code~~
 109 ~~Section 16-12-30 and including any game, machine, or device that is or is alleged or~~
 110 ~~believed to be a gambling device as defined in Code Section 16-12-20."~~

111 SECTION 5.

112 Said part is further amended by revising Code Section 16-12-35, relating to the applicability
 113 of criminal statutes relating to gambling, as follows:

114 "16-12-35.

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

116 (1) 'Single play' or 'one play' means the completion of a sequence of a game where the
 117 player receives a score and from the score the player can secure free replays,
 118 merchandise, points, tokens, vouchers, tickets, or other evidence of winnings as set forth
 119 in subsection (c) or (d) of this Code section.

120 (2) 'some Some skill' means any presence of the following factors, alone or in
 121 combination with one another:

122 ~~(1)(A)~~ A learned power of doing a thing competently;

123 ~~(2)(B)~~ A particular craft, art, ability, strategy, or tactic;

124 ~~(3)(C)~~ A developed or acquired aptitude or ability;

125 ~~(4)(D)~~ A coordinated set of actions, including, but not limited to, eye-hand
 126 coordination;

127 ~~(5)(E)~~ Dexterity, fluency, or coordination in the execution of learned physical or
 128 mental tasks or both;

129 ~~(6)(F)~~ Technical proficiency or expertise;

130 ~~(7)(G)~~ Development or implementation of strategy or tactics in order to achieve a goal;

131 or

132 ~~(8)(H)~~ Knowledge of the means or methods of accomplishing a task.

133 The term 'some skill' refers to a particular craft, coordinated effort, art, ability, strategy, or
134 tactic employed by the player to affect in some way the outcome of the game played on a
135 bona fide coin operated amusement machine as defined in paragraph (2) of Code Section
136 48-17-1. ~~If a player can take no action to affect the outcome of the game, the bona fide it~~
137 is not necessary for a player to take an action to achieve a successful outcome on a coin
138 operated amusement machine, such machine does not meet the 'some skill' requirement of
139 this Code section. Any amusement game which does not require some skill is subject to
140 the provisions of this article prohibiting gambling, even if prizes are limited as provided
141 in subsections (c) and (d) of this Code section.

142 ~~(b) Nothing in this part shall apply to a coin operated game or device designed and~~
143 ~~manufactured for bona fide amusement purposes only which may by application of some~~
144 ~~skill entitle the player to earn replays of the game or device at no additional cost and to~~
145 ~~discharge the accumulated free replays only by reactivating the game or device for each~~
146 ~~accumulated free replay or by reactivating the game or device for a portion or all of the~~
147 ~~accumulated free plays in a single play. This subsection shall not apply, however, to any~~
148 ~~game or device classified by the United States government as requiring a federal gaming~~
149 ~~tax stamp under applicable provisions of the Internal Revenue Code or any item described~~
150 ~~as a gambling device in subparagraph (B), (C), or (D) of paragraph (2) of Code Section~~
151 ~~16-12-20 Reserved.~~

152 (c)(1) ~~Nothing in this part shall apply to a~~ A crane game machine or device meeting the
153 requirements of paragraph (2) of this subsection shall be a bona fide coin operated
154 amusement machine.

155 (2) A crane game machine or device acceptable for the purposes of paragraph (1) of this
156 subsection shall meet the following requirements:

157 (A) The machine or device must be designed and manufactured only for bona fide
158 amusement purposes and must involve at least some skill in its operation;

159 (B) The machine or device must reward a winning player exclusively with free replays
160 or merchandise contained within the machine itself and such merchandise must be
161 limited to noncash merchandise, prizes, toys, gift certificates, or novelties, each of
162 which has a wholesale value not exceeding \$5.00 and is not exchangeable or
163 redeemable in any manner in this state or in any other state, jurisdiction, or foreign
164 country for money, cash, or any equivalent thereof. Tobacco products, firearms, and
165 items the sale of which is regulated by Title 3 shall not be awarded as rewards for
166 successful play of the machine. A player may be rewarded with both free replays and
167 noncash merchandise, prizes, toys, or novelties for a single play of the game or device
168 as provided in this Code section;

169 (C) The player of the machine or device must be able to control the timing of the use
170 of the claw or grasping device to attempt to pick up or grasp a prize, toy, or novelty;

171 (D) The player of the machine or device must be made aware of the total time which
172 the machine or device allows during a game for the player to maneuver the claw or
173 grasping device into a position to attempt to pick up or grasp a prize, toy, or novelty;
174 and

175 (E) The claw or grasping device must not be of a size, design, or shape that prohibits
176 picking up or grasping a prize, toy, or novelty contained within the machine or device;
177 and

178 ~~(F) The machine or device must not be classified by the United States government as~~
179 ~~requiring a federal gaming stamp under applicable provisions of the Internal Revenue~~
180 ~~Code.~~

181 (d)(1) ~~Nothing in this part shall apply to a~~ A coin operated game or device designed and
182 manufactured only for bona fide amusement purposes which involves some skill in its
183 operation shall be a bona fide coin operated amusement machine if it rewards ~~the player~~
184 a successful player of such a machine exclusively with:

185 (A) Free replays;

186 (B) Merchandise limited to noncash merchandise, prizes, toys, gift certificates, or
187 novelties, each of which has a wholesale value of not more than \$5.00 received for a
188 single play of the game or device and is not exchangeable or redeemable in any manner
189 in this state or in any other state, jurisdiction, or foreign country for money, cash, or any
190 equivalent thereof. Tobacco products, firearms, and items the sale of which is regulated
191 by Title 3 shall not be awarded as rewards for successful play of the machine;

192 (C) Points, tokens, vouchers, tickets, or other evidence of winnings which may be
193 exchanged only for rewards set out in subparagraph (A) of this paragraph or
194 subparagraph (B) of this paragraph or a combination of rewards set out in subparagraph
195 (A) and subparagraph (B) of this paragraph; or

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

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

202 (2) A player of bona fide coin operated amusement games or devices described in
203 paragraph (1) of this subsection may accumulate winnings for the successful play of such
204 bona fide coin operated amusement games or devices through tokens, vouchers, points,
205 or tickets. Points may be accrued on the machine or device. A player may carry over

206 such points on one play to subsequent plays. A player may redeem accumulated points,
 207 tokens, vouchers, or tickets for noncash merchandise, prizes, toys, gift certificates, or
 208 novelties so long as the amount of points, tokens, vouchers, or tickets received does not
 209 exceed \$5.00 for a single play.

210 (e) It shall be unlawful for:

211 (1) Any person who gives to give to any other person money for free replays on coin
 212 operated games or devices described in subsection (b), (c); or (d) of this Code section;
 213 shall be guilty of a misdemeanor.

214 ~~(f)~~(2) Any person owning or possessing an amusement game or device described in
 215 subsection (c) or (d) of this Code section or any person employed by or acting on behalf
 216 of any such person who gives to give to any other person money for any noncash
 217 merchandise, prize, toy, gift certificate, or novelty received as a reward in playing any
 218 such amusement game or device; shall be guilty of a misdemeanor.

219 ~~(g)~~(3) Any person owning or possessing an amusement game or device described in
 220 subsection (b), (c); or (d) of this Code section or any person employed by or acting on
 221 behalf of any such person who gives to give to any other person money as a reward for
 222 the successful play or winning of any such amusement game or device; shall be guilty of
 223 a misdemeanor of a high and aggravated nature.

224 (4) Any person to receive money from another person for one or more free replays on
 225 a bona fide coin operated amusement machine;

226 (5) Any person to receive money from a person owning or possessing a bona fide coin
 227 operated amusement machine or any person employed by or acting on behalf of any such
 228 person for any noncash merchandise, prize, toy, gift certificate, or novelty received as a
 229 reward in playing any such bona fide coin operated amusement machine;

230 (6) Any person to receive any money for a gift certificate received as a reward in playing
 231 any bona fide coin operated amusement machine or for the return of any merchandise
 232 purchased with such a gift certificate; or

233 (7) Any person to receive money as a reward for the successful play or winning of any
 234 bona fide coin operated amusement machine from any person owning or possessing such
 235 bona fide coin operated amusement machine or any person employed by or acting on
 236 behalf of any such person.

237 (f) The first and second violations of subsection (e) of this Code section shall be punished
 238 as high and aggravated misdemeanors. Third and subsequent offenses shall be felony
 239 offenses punishable by imprisonment for not less than one and not more than five years or
 240 a fine not to exceed \$50,000.00, or both.

241 (g) Reserved.

242 ~~(h)(1) Any gift certificates, tokens, vouchers, tickets, or other evidence of winnings~~
 243 ~~awarded under subsection (c) or (d) of this Code section must be redeemable only at the~~
 244 ~~premises on which the game or device is located. It shall be unlawful for any person to~~
 245 ~~provide to any other person as a reward for play on any such game or device any gift~~
 246 ~~certificate, token, voucher, ticket, or other evidence of winning which is redeemable or~~
 247 ~~exchangeable for any thing of value at any other premises. It shall be unlawful for any~~
 248 ~~person at any premises other than those on which the game or device is located to give~~
 249 ~~any thing of value to any other person for any gift certificate, token, voucher, ticket, or~~
 250 ~~other evidence of winning received by such other person from play on such game or~~
 251 ~~device. Any person who violates this subsection shall be guilty of a misdemeanor of a~~
 252 ~~high and aggravated nature~~ Each gift certificate awarded for successful play on a bona
 253 fide coin operated amusement machine in accordance with subsection (c) or (d) of this
 254 Code section shall have printed on it the following:

255 'GEORGIA LAW PROHIBITS EXCHANGING OR REDEEMING THIS
 256 CERTIFICATE FOR MONEY, CASH, OR ANY EQUIVALENT, INCLUDING
 257 CHANGE IN MONEY OR CASH, AS PART OF AN EXCHANGE FOR
 258 MERCHANDISE. CRIMINAL PENALTIES MAY INCLUDE A \$5,000.00 FINE OR
 259 12 MONTHS IN PRISON, OR BOTH, FOR THE FIRST AND SECOND OFFENSES
 260 AND ARE MORE SEVERE FOR ADDITIONAL OFFENSES.'

261 (2) Violation of this subsection shall be a misdemeanor.

262 ~~(i)(1) The merchandise, prizes, toys, gift certificates, novelties, or rewards which may~~
 263 ~~be awarded under subsection (c) or (d) of this Code section may not include or be~~
 264 ~~redeemable or exchangeable for any firearms, alcohol, or tobacco or any lottery ticket or~~
 265 ~~other item enabling participation in any lottery. Any person who violates this subsection~~
 266 ~~shall be guilty of a misdemeanor of a high and aggravated nature~~ Except as authorized
 267 by a local ordinance, no business owner or business operator shall offer more than nine
 268 bona fide coin operated amusement machines to the public for play in the same business
 269 location.

270 (2) Violation of this subsection shall be a misdemeanor.

271 (j) Any other laws to the contrary notwithstanding, this part shall not be applicable to the
 272 manufacturing, processing, selling, possessing, or transporting of any printed materials,
 273 equipment, devices, or other materials used or designated for use in a legally authorized
 274 lottery nor shall it be applicable to the manufacturing, processing, selling, possessing, or
 275 transporting of any gaming equipment, devices, or other materials used or designated for
 276 use only in jurisdictions in which the use of such items is legal. This part shall in no way
 277 prohibit communications between persons in this state and persons involved with such
 278 legal lotteries or gaming devices relative to such printed materials, equipment, devices, or

279 other materials or prohibit demonstrations of same within this state. This part shall not be
 280 applicable to a coin operated amusement machine if the machine and any rewards provided
 281 by the machine for successful play of such machine comply with this Code section."

282 **SECTION 6.**

283 Said part is further amended by adding a new Code section to read as follows:

284 "16-12-35.1.

285 (a) As used in this Code section, the term 'amusement or recreational establishment' means
 286 an open-air establishment frequented by the public for amusement or recreation. Such an
 287 establishment may be traveling or fixed in location.

288 (b) Nothing in this part shall apply to any game that:

289 (1) Uses neither electricity nor any electronic components;

290 (2) Is available to the public for play at an amusement or recreational establishment;

291 (3) Involved the use of eye-hand coordination or physical strength or both eye-hand
 292 coordination and physical strength on the part of a successful player; and

293 (4) Rewards a successful player exclusively with:

294 (A) Noncash merchandise, prizes, toys, gift certificates, or novelties;

295 (B) Points, tokens, vouchers, tickets, or other evidence of winnings that may be
 296 exchanged for rewards set out in subparagraph (A) of this paragraph; or

297 (C) A combination of rewards set out in subparagraphs (A) and (B) of this paragraph."

298 **SECTION 7.**

299 Chapter 17 of Title 48 of the Official Code of Georgia Annotated, relating to taxation of bona
 300 fide coin operated amusement machines, is amended by revising Code Section 48-17-1,
 301 relating to definitions, as follows:

302 "48-17-1.

303 As used in this chapter, the term:

304 (1) ~~'Applicant' or 'licensee' means owner as defined in this Code section including an~~
 305 owner's 'Applicant,' 'licensee,' or 'holder of a license or permit' includes an entity's
 306 officers, directors, shareholders, individuals, members of any association or other entity
 307 not specified, and, when applicable in context, the business entity itself.

308 (2)(A) 'Bona fide coin operated amusement machine' means:

309 (A)(i) Every machine of ~~any kind or character~~ used by the public to provide
 310 amusement or entertainment whose operation requires the payment of or the insertion
 311 of a coin, bill, other money, token, ticket, or similar object ~~and the result of whose~~
 312 operation if a successful result in operating such machine depends in whole or in part
 313 upon the ~~skill of~~ exercise of some skill, as defined in Code Section 16-12-35, by the

314 player, whether or not it the machine affords an award to a successful player pursuant
 315 to subsections (b) through (g) of Code Section 16-12-35, and which can be legally
 316 shipped interstate according to federal law. Any rewards provided by such a machine
 317 shall comply with the provisions of Code Section 16-12-35. Examples of bona fide
 318 coin operated amusement machines include, but are expressly not limited to, the
 319 following:

- 320 (i)(I) Pinball machines;
- 321 (ii)(II) Console machines;
- 322 (iii)(III) Video games;
- 323 (iv)(IV) Crane machines;
- 324 (v)(V) Claw machines;
- 325 (vi)(VI) Pusher machines;
- 326 (vii)(VII) Bowling machines;
- 327 (viii)(VIII) Novelty arcade games;
- 328 (ix)(IX) Foosball or table soccer machines;
- 329 (x)(X) Miniature racetrack, football, or golf machines;
- 330 (xi)(XI) Target or shooting gallery machines;
- 331 (xii)(XII) Basketball machines;
- 332 (xiii)(XIII) Shuffleboard games;
- 333 (xiv)(XIV) Kiddie ride games;
- 334 (xv)(XV) Skeeball machines;
- 335 (xvi)(XVI) Air hockey machines;
- 336 (xvii)(XVII) Roll down machines;
- 337 (xviii)(XVIII) Trivia machines;
- 338 (xix)(XIX) Laser games;
- 339 (xx)(XX) Simulator games;
- 340 (xxi)(XXI) Virtual reality machines;
- 341 (xxii)(XXII) Maze games;
- 342 (xxiii)(XXIII) Racing games;
- 343 (XXIV) Matchup games or lineup games that offer no reward for successful play
 344 unless the player, after the game begins, takes a specific action that actually affects
 345 the outcome of the game;
- 346 (xxiv)(XXV) Coin operated pool tables or coin operated billiard tables as defined
 347 in paragraph (3) of Code Section 43-8-1; and
- 348 (xxv)(XXVI) Any other similar amusement machine which can be legally operated
 349 in Georgia; and

350 ~~(B)~~(ii) Every machine of any kind or character used by the public to provide music
 351 whose operation requires the payment of or the insertion of a coin, bill, other money,
 352 token, ticket, or similar object such as jukeboxes or other similar types of music
 353 machines.

354 (B) The term 'bona fide coin operated amusement machine' does not include the
 355 following:

356 (i) Any video game machine or device for the play of poker, blackjack, any other
 357 card game, or any variation of the foregoing:

358 ~~(i)~~(ii) Coin operated washing machines or dryers;

359 ~~(ii)~~(iii) Vending machines which for payment of money dispense products or
 360 services;

361 ~~(iii)~~(iv) Gas and electric meters;

362 ~~(iv)~~(v) Pay telephones;

363 ~~(v)~~(vi) Pay toilets;

364 ~~(vi)~~(vii) Cigarette vending machines;

365 ~~(vii)~~(viii) Coin operated scales;

366 ~~(viii)~~(ix) Coin operated gumball machines;

367 ~~(ix)~~(x) Coin operated parking meters;

368 ~~(x)~~(xi) Coin operated television sets which provide cable or network programming;

369 ~~(xi)~~(xii) Coin operated massage beds; ~~and~~

370 (xiii) Games defined by subsection (b) of Code Section 16-12-35.1; and

371 ~~(xii)~~(xiv) Machines which are not legally permitted to be operated in Georgia.

372 (2.1) 'Business owner or business operator' means an owner or operator of a business
 373 where one or more bona fide coin operated amusement machines are available for
 374 commercial use and play by the public.

375 (2.2) 'Class A machine' means a bona fide coin operated amusement machine that is not
 376 a Class B machine and:

377 (A) Provides no reward for successful play;

378 (B) Rewards a successful player with free replays or additional time to play;

379 (C) Rewards a successful player with noncash merchandise, prizes, toys, gift
 380 certificates, or novelties;

381 (D) Rewards a successful player with points, tokens, tickets, or other evidence of
 382 winnings that may be exchanged only for items listed in subparagraph (C) of this
 383 paragraph; or

384 (E) Rewards a successful player with any combination of items listed in
 385 subparagraphs (B), (C), and (D) of this paragraph.

386 (2.3) 'Class B machine' means a bona fide coin operated amusement machine that:

- 387 (A) Is a matchup or lineup game; and
 388 (B) Rewards a successful player as provided in subparagraph (C), (D), or (E) of
 389 paragraph (2.2) of this Code section.
- 390 (3) 'Commissioner' means the state revenue commissioner.
- 391 (3.1) 'Location permit' means the certificate which every business owner or business
 392 operator must purchase and display in the location where one or more bona fide coin
 393 operated amusement machines are available for commercial use by the public for play in
 394 order to operate legally the machine or machines in this state.
- 395 (3.2) 'Location permit fee' means the fee paid to obtain the location permit.
- 396 (4) 'Master license' means the certificate which every owner of a bona fide coin operated
 397 amusement machine must purchase and display in the ~~owner's or operator's~~ place of
 398 business where the machine is located for commercial use by the public for play in order
 399 to legally operate the machine in the state.
- 400 (4.1) 'Net receipts' means the entire amount of moneys received from the public for play
 401 of an amusement machine, minus the amount of expenses for noncash redemption of
 402 winnings from the amusement machine, and minus the amount of moneys refunded to the
 403 public for malfunction of the amusement machine.
- 404 (5) 'Operator' means any person, individual, firm, company, association, corporation, or
 405 other business entity who exhibits, displays, or permits to be exhibited or displayed, ~~in~~
 406 ~~a place of business other than his own,~~ any bona fide coin operated amusement machine
 407 in this state.
- 408 (6) 'Owner' means any person, individual, firm, company, association, corporation, or
 409 other business entity owning any bona fide coin operated amusement machine in this
 410 state.
- 411 (7) 'Permit fee' means the annual per machine charge which every owner of a bona fide
 412 coin operated amusement machine in commercial use must ~~purchase and display in either~~
 413 ~~the owner's or operator's place of business~~ pay in order to legally operate the machine in
 414 the state.
- 415 (8) 'Sticker' means the decal issued for every bona fide coin operated amusement
 416 machine to show proof of payment of the permit fee."

417 **SECTION 8.**

418 Said chapter is further amended by adding a new Code section to read as follows:

419 "48-17-1.1.

420 The commissioner is authorized and empowered, subject to the provisions of this chapter,
 421 to act in the name of and on behalf of this state to institute any action or judicial proceeding
 422 to collect any license fees, location permit fees, or other fees or taxes on bona fide coin

423 operated amusement machines that are due to the state and to take other actions authorized
 424 by this chapter with regard to licensees, applicants, and owners or possessors of bona fide
 425 coin operated amusement machines."

426 **SECTION 9.**

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

429 "48-17-2.

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

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

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

436 ~~(B)~~ In the event such owner acquires a sixth or greater number of machines during
 437 a calendar year which require a certificate for lawful operation under this chapter so
 438 that the total number of machines owned does not exceed 60 machines or more, such
 439 owner shall pay an additional master license fee of \$1,250.00;

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

442 (B) For six or more machines but not more than 60 machines, the owner shall pay a
 443 master license fee of \$1,500.00. In the event such owner acquires a sixty-first or
 444 greater number of machines during a calendar year which require a certificate for lawful
 445 operation under this chapter, such owner shall pay an additional master license fee of
 446 \$1,000.00; or

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

449 (2) For any number of Class B machines, the owner shall pay a master license fee of
 450 \$5,000.00.

451 The cost of the license shall be paid to the commissioner by company check, cash, cashier's
 452 check, or money order. Upon said payment, the commissioner shall issue a master license
 453 certificate to the owner. The master license fee levied by this ~~chapter~~ Code section shall
 454 be collected by the commissioner on an annual basis, provided that an owner may purchase
 455 a six-month master license during the calendar year for ~~\$175.00 for a level one license,~~
 456 ~~\$1,050.00 for a level two license, or \$1,750.00 for a level three license~~ for one-half the
 457 applicable annual fee. For the year 2009 only, the amount of the master license fee shall
 458 be calculated by dividing the amount of the annual fee by 12 and multiplying the quotient

459 by the number of months remaining in the year when the license is issued. The
460 commissioner may establish procedures for master license collection and set due dates for
461 these license payments. No refund or credit of the master license charge levied by this
462 ~~chapter~~ Code section may be allowed to any owner who ceases the operation of bona fide
463 coin operated amusement machines prior to the end of any calendar year.

464 (a.1) Every business owner or business operator, as defined in Code Section 48-17-1, shall
465 pay an annual location permit fee for each bona fide coin operated amusement machine
466 offered to the public for play. The annual location permit fee shall be \$10.00 for each
467 Class A machine and \$125.00 for each Class B machine. The location permit fee shall be
468 paid to the commissioner by company check, cash, cashier's check, or money order. Upon
469 payment, the commissioner shall issue a location permit certificate that shall state the
470 number of bona fide coin operated amusement machines permitted for each class without
471 further description or identification of specific machines. The commissioner may establish
472 procedures for location permit fee collection and set due dates for payment of such fees.
473 For the year 2009 only, the amount of the location permit fee shall be calculated by
474 dividing the amount of the annual fee by 12 and multiplying the quotient by the number of
475 months remaining in the year when the license is issued. No refund or credit of the
476 location permit fee shall be allowed to any business owner or business operator who ceases
477 to offer bona fide coin operated amusement machines to the public for commercial use
478 prior the end of any calendar year.

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

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

488 (d) The commissioner may provide a duplicate original master license certificate or
489 location permit certificate if the original ~~master license~~ certificate has been lost, stolen, or
490 destroyed. The fee for a duplicate original ~~master license~~ certificate is \$100.00. If the
491 original ~~master license~~ certificate is lost, stolen, or destroyed, a sworn, written statement
492 must be submitted explaining the circumstances by which the ~~master license~~ certificate was
493 lost, stolen, or destroyed and including the number of the lost, stolen, or destroyed ~~master~~
494 license certificate, if applicable, before a duplicate original ~~master license~~ certificate can

495 be issued. A ~~master license certificate~~ for which a duplicate ~~master license~~ certificate has
 496 been issued is void.

497 (d.1) Each master license issued for bona fide coin operated amusement machines shall
 498 include the following:

499 'GEORGIA LAW PROHIBITS GIVING OR RECEIPT OF MONEY FOR WINNING
 500 A GAME OR GAMES ON THIS AMUSEMENT MACHINE; GIVING OR RECEIPT
 501 OF MONEY FOR FREE REPLAYS WON ON THIS AMUSEMENT MACHINE;
 502 GIVING OR RECEIPT OF MONEY FOR ANY MERCHANDISE, PRIZE, TOY, GIFT
 503 CERTIFICATE, OR NOVELTY WON ON THIS AMUSEMENT MACHINE; OR
 504 AWARDING ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR
 505 NOVELTY OF A VALUE EXCEEDING \$5.00 FOR A SINGLE PLAY OF THIS
 506 MACHINE.'

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

- 508 (1) Is effective for a single business entity;
 509 (2) Vests no property or right in the ~~licensee~~ holder of the license or permit except to
 510 conduct the licensed or permitted business during the period the license or permit is in
 511 effect;
 512 (3) Is nontransferable, nonassignable by and between owners or business owners and
 513 business operators, and not subject to execution; and
 514 (4) Expires upon the death of an individual ~~licensee~~ holder of a license or permit or upon
 515 the dissolution of any other ~~licensee~~ holder of a license or permit.

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

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

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

530 (i) ~~The~~ An application for a master license shall be accompanied by either the annual or
 531 semiannual fee plus the required permit fee due for each machine. Additional per machine

532 permits can be purchased during the year if needed by the owner. An application for a
 533 location permit shall be accompanied by either the annual or semiannual location permit
 534 fee.

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

538 (k) A renewal application filed on or after January 1, but before the ~~master license or~~
 539 ~~permit~~ expires, shall be accompanied by a late fee of \$125.00. ~~If an owner's master license~~
 540 ~~has been expired for more than 90 days, the owner may not renew the master license. A~~
 541 ~~master license or location permit that has been expired for more than 90 days may not be~~
 542 ~~renewed.~~ In such a case, the owner shall obtain a new master license or the business owner
 543 or business operator shall obtain a new location permit, as applicable, by complying with
 544 the requirements and procedures for obtaining an original master license or location permit.

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

550

SECTION 10.

551 Said chapter is further amended by revising Code Section 48-17-3, relating to refund of
 552 license, as follows:

553 "48-17-3.

554 (a) No refund is allowed for fees for a master license or location permit except as follows:

555 (1) The ~~owner~~ holder of the license or permit makes a written request to the
 556 commissioner for a refund prior to the beginning of the calendar year for which it was
 557 purchased;

558 (2) The ~~owner~~ holder of the license or permit makes a written request prior to the
 559 issuance of the master license or ~~registration~~ location permit certificate;

560 (3) The ~~owner~~ holder of the license or permit makes a written request for a refund
 561 claiming the master license or ~~registration~~ location permit certificate was mistakenly
 562 purchased due to reliance on incorrect information from the commissioner;

563 (4) The processing of the master license or location permit is discontinued; or

564 (5) The issuance of the master license or location permit is denied.

565 (b) Before a refund will be allowed if the renewal of a master license or location permit
 566 is denied, the commissioner shall verify that the applicant has no machines in operation and
 567 does not possess any machines except those that are exempt from the fees. If a master

568 license or location permit is not issued, the commissioner may retain \$100.00 to cover
 569 administrative costs.
 570 (c) No refund will be allowed if the ~~owner~~ holder of the license or permit has an existing
 571 liability for any other fees or taxes due. Any refund will be applied to the existing liability
 572 due."

573 SECTION 11.

574 Said chapter is further amended by revising Code Section 48-17-4, relating to refusal to issue
 575 or renew license, as follows:

576 "48-17-4.

577 (a) The commissioner shall not renew a master license or location permit for a business
 578 under this chapter and shall suspend for any period of time or cancel a master license or
 579 location permit if the commissioner finds that the applicant or ~~licensee~~ holder of a license
 580 or permit is indebted to the state for any fees, costs, penalties, or delinquent fees.

581 (b) The commissioner shall not issue or renew a license for a business under this chapter
 582 if the applicant does not designate and maintain an office in this state or if the applicant
 583 does not permit inspection by the commissioner of ~~his~~ the place of business or of all
 584 records which the applicant or ~~licensee~~ holder of a license or permit is required to maintain.

585 (c) The commissioner may refuse to issue or renew a master license or location permit or
 586 may revoke or suspend a master license or location permit issued under this chapter if:

587 (1) The ~~licensee or applicant~~ or holder of a license or permit has intentionally violated
 588 a provision of this chapter, ~~or a regulation promulgated under this chapter, or any~~
 589 provision of Chapter 12 of Title 16;

590 (2) The ~~licensee or applicant~~ or holder of a license or permit has intentionally failed to
 591 answer a question or has intentionally made a false statement in or in connection with his
 592 or her application or renewal;

593 (3) The ~~licensee or applicant~~ or holder of a license or permit used coercion to accomplish
 594 a purpose or to engage in conduct regulated by the commissioner;

595 (4) ~~A licensee or applicant that~~ An applicant or holder of a license or permit allows the
 596 use of its master license certificate, location permit, or per machine permit stickers by any
 597 other business entity or person who owns or operates bona fide coin operated amusement
 598 machines available for commercial use and available to the public for play. If such
 599 unauthorized use occurs, the commissioner may fine the ~~licensee~~ holder of a license or
 600 permit as follows:

601 (A) One hundred and fifty dollars for each improper use of a per machine permit
 602 sticker; and

603 (B) One thousand dollars for each improper use of a master license certificate or
 604 location permit.

605 In addition, the commissioner is authorized to seize the machines in question and assess
 606 the master license ~~fee, and permit fees, and location permit fees~~ as required by law and
 607 to assess the costs of such seizure to the ~~owner or operator of the machines~~ holder of a
 608 license or permit; or

609 (5) Failure to suspend or revoke the license or location permit would be contrary to the
 610 intent and purpose of this chapter.

611 (d) The commissioner, on the request of a ~~licensee~~ holder of a license or permit or
 612 applicant for a license or location permit, shall conduct a hearing to ascertain whether a
 613 ~~licensee or the~~ applicant for a license or location permit or holder of a license or permit has
 614 engaged in conduct which would be grounds for revocation, suspension, or refusal to issue
 615 or renew a license or location permit."

616 SECTION 12.

617 Said chapter is further amended by revising Code Section 48-17-5, relating to right to notice
 618 and hearing, as follows:

619 "48-17-5.

620 (a) An applicant or ~~licensee~~ holder of a license or permit is entitled to at least 30 days'
 621 written notice and, if requested, a hearing in the following instances:

622 (1) After an application for an original or renewal license or location permit has been
 623 refused;

624 (2) Before the commissioner may revoke a license or location permit; or

625 (3) Before the commissioner may invoke any other sanctions provided by this chapter.

626 For purposes of this paragraph, sanctions shall not include:

627 (A) Issuance of a citation;

628 (B) Imposition of a late fee, penalty fee, or interest penalty under subsection (k) of
 629 Code Section 48-17-2, Code Section 48-17-11, or subsection (a) of Code Section
 630 48-17-13; or

631 (C) Sealing a machine or imposing charges related thereto under subsection (g) of
 632 Code Section 48-17-13.

633 (b) The written notice provided by this Code section may be served personally by the
 634 commissioner or an authorized representative or sent by United States certified mail or
 635 statutory overnight delivery addressed to the applicant, ~~licensee, or registration certificate~~
 636 ~~holder~~ or holder of a license or permit at its last known address. In the event that notice
 637 cannot be effected by either of these methods after due diligence, the commissioner may
 638 prescribe any reasonable method of notice calculated to inform a person of average

639 intelligence and prudence of the commissioner's action, including publishing the notice in
 640 a newspaper of general circulation in the area in which the applicant, ~~licensee, or~~
 641 ~~registration certificate holder~~ or holder of a license or permit conducts its business
 642 activities. The written notice shall state with particularity the basis upon which the
 643 commissioner is taking the proposed actions."

644 **SECTION 13.**

645 Said chapter is further amended by revising Code Section 48-17-6, relating to delivery of
 646 order refusing application or imposing sanction, as follows:

647 "48-17-6.

648 (a) The commissioner shall deliver to the applicant or ~~licensee~~ holder of a license or permit
 649 a written copy of the order refusing an application or renewal application, revoking a
 650 master license or location permit, or imposing any other sanction provided in this chapter
 651 issued after any required hearing.

652 (b) Delivery of the commissioner's order may be given by:

653 (1) Personal service upon an individual applicant or ~~licensee~~ holder of a license or
 654 permit;

655 (2) Personal service upon any officer, director, partner, trustee, or receiver, as the case
 656 may be;

657 (3) Personal service upon the person in charge of the business premises, temporarily or
 658 otherwise, of the applicant or ~~licensee~~ holder of a license or permit;

659 (4) Sending such notice by United States certified mail or statutory overnight delivery
 660 addressed to the business premises of the applicant or ~~licensee~~ holder of a license or
 661 permit; or

662 (5) Posting notice upon the outside door of the business premises of the applicant or
 663 ~~licensee~~ holder of a license or permit.

664 (c) Notice shall be deemed complete upon the performance of any action authorized in this
 665 Code section."

666 **SECTION 14.**

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

669 "48-17-9.

670 (a) Every owner, except an owner holding a coin operated machine solely for personal use
 671 or resale, who offers others the opportunity to play for a charge, whether direct or indirect,
 672 any bona fide coin operated amusement machine shall pay a ~~uniform~~ an annual permit fee
 673 ~~of \$25.00 per~~ for each bona fide coin operated amusement machine in the amount of

674 \$25.00 for each Class A machine and \$125.00 for each Class B machine. The fee shall be
 675 paid to the commissioner by company check, cash, cashier's check, or money order. Upon
 676 payment, the commissioner shall issue a sticker for each ~~\$25.00 payment for each~~ coin
 677 operated machine. The annual fees levied by this chapter ~~will~~ shall be collected by the
 678 commissioner on an annual basis. The commissioner may establish procedures for annual
 679 collection and set due dates for the fee payments. No refund or credit of the annual fee
 680 levied by this chapter shall be allowed to any owner who ceases the exhibition or display
 681 of any coin operated machine prior to the end of any calendar year.

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

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

692 (d) Each permit sticker issued for a bona fide coin operated amusement machine which
 693 rewards a winning player exclusively with free replays, noncash redemption merchandise,
 694 prizes, toys, gift certificates, or novelties; or points, tokens, tickets, or other evidence of
 695 winnings that may be exchanged for free replays or noncash redemption merchandise,
 696 prizes, toys, gift certificates, or novelties, in accordance with the provisions of
 697 subsections (b) through (d) of Code Section 16-12-35 shall include the following:

698 'GEORGIA LAW PROHIBITS THE PAYMENT OR RECEIPT OF ANY MONEY FOR
 699 REPLAYS OR MERCHANDISE AWARDED FOR PLAYING THIS MACHINE.
 700 O.C.G.A. SECTION 16-12-35.'

701 ~~(d)~~(e) The commissioner may provide a duplicate permit sticker if a valid permit sticker
 702 has been lost, stolen, or destroyed. The fee for a duplicate permit sticker shall be \$10.00.
 703 If a permit sticker is lost, stolen, or destroyed, a sworn, written statement must be submitted
 704 explaining the circumstances by which the permit sticker was lost, stolen, or destroyed and
 705 including the number of the lost, stolen, or destroyed permit before a replacement permit
 706 can be issued. A permit for which a duplicate permit sticker has been issued is void."

707 SECTION 15.

708 Said chapter is further amended by revising Coded Section 48-17-11, relating to permit fees
 709 for additional machines, as follows:

710 "48-17-11.
 711 If an owner purchases or receives additional coin operated machines during the calendar
 712 year, the ~~\$25.00~~ applicable annual permit fee shall be paid to the commissioner and the
 713 sticker shall be affixed to the machine ~~or placed at the location where the machine is~~
 714 ~~located~~ before the machine may be legally operated. A penalty fee of ~~\$50.00~~ equal to twice
 715 the applicable annual permit fee shall be assessed by the commissioner for every machine
 716 in operation without a permit sticker."

717 **SECTION 16.**

718 Said chapter is further amended by revising subsections (a) and (g) of Code Section
 719 48-17-13, relating to criminal violations, as follows:

720 "(a) If any owner or operator of any bona fide coin operated amusement machine in this
 721 state shall violate any provision of this chapter or any rule and regulation promulgated
 722 under this chapter, the commissioner may investigate the violation and may seek sanctions,
 723 including late fees of ~~\$50.00~~ equal to twice the applicable annual permit fee for failure to
 724 pay timely permit sticker fees, ~~\$125.00~~ \$500.00 for failure to pay timely the master license
 725 fee, suspension or revocation of a license, seizure of equipment, interest penalty, and
 726 debarment for repeat offenders."

727 "(g) The commissioner or an authorized representative of the commissioner may seal in
 728 a manner that will prevent its full operation any such bona fide coin operated amusement
 729 machine that is in commercial use available to the public for play whose master license or
 730 sticker under this chapter has been suspended or revoked, upon which the fee has not been
 731 paid, or that is not registered with the commissioner under this chapter. Whoever shall
 732 break the seal affixed by the commissioner or an authorized representative of the
 733 commissioner without the commissioner's approval or whoever shall provide in
 734 commercial use available to the public for play any such bona fide coin operated
 735 amusement machine after said seal has been broken without the commissioner's approval
 736 or whoever shall remove any bona fide coin operated amusement machine from a location
 737 after the same has been sealed by the commissioner shall be guilty of a misdemeanor. The
 738 commissioner shall charge a reasonable fee of ~~\$75.00~~ for the release of any bona fide coin
 739 operated amusement machine which is sealed. The fee shall be paid to the commissioner."

740 **SECTION 17.**

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

743 "48-17-14.

744 (a) All taxes, fees, penalties, and interest accruing to the State of Georgia under any other
 745 provision of this title as it existed prior to ~~January 1, 1993~~, the effective date of the
 746 amendment of this Code section shall be and remain valid and binding obligations to the
 747 State of Georgia for all taxes, penalties, and interest accruing under the provisions of prior
 748 or preexisting laws and all such taxes, penalties, and interest now or hereafter becoming
 749 delinquent to the State of Georgia prior to ~~January 1, 1993~~, the effective date of the
 750 amendment of this Code section are expressly preserved and declared to be legal and valid
 751 obligations to the state.

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

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

759 **SECTION 18.**

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

762 "48-17-15.

763 (a) In this Code section and in Code Section 48-17-17, the term:

764 (1) 'Business location' means any structure, vehicle, or establishment where a business
 765 is conducted.

766 (2) 'Gross retail receipts' means the total revenue derived by a business at any one
 767 business location from the sale of goods and services and the commission earned at any
 768 one business location on the sale of goods and services but does not include revenue from
 769 the sale of goods or services for which the business will receive only a commission.
 770 Revenue from the sale of goods and services at wholesale is not included.

771 (a)(b) No business owner or business operator shall derive more than 50 percent of such
 772 business owner's or business operator's ~~annual income from~~ monthly gross retail receipts
 773 for the business location in which the Class B bona fide coin operated amusement machine
 774 or machines are situated from such Class B bona fide coin operated amusement machines
 775 that provide for noncash redemption as described in subsection (c) or (d) of Code Section
 776 ~~16-12-35~~.

777 (c) For each business location which offers to the public one or more Class B bona fide
 778 coin operated amusement machines, the business owner or business operator shall prepare

779 a monthly verified report setting out separately the gross retail receipts from the Class B
 780 bona fide coin operated amusement machines and the gross retail receipts for the business
 781 location. Upon request, the business owner or business operator shall supply such monthly
 782 reports to the commissioner. The department is authorized to audit any records for any
 783 such business location.

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

789 **SECTION 19.**

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

791 "48-17-16.

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

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

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

800 (b) Before a penalty is imposed in accordance with this Code section, a business owner or
 801 business operator shall be entitled to at least 30 days' written notice and, if requested, a
 802 hearing. Such written notice shall be served in the manner provided for written notices to
 803 applicants and holders of licenses or permits in subsection (b) of Code Section 48-17-5, and
 804 an order imposing a penalty shall be delivered in the manner provided for delivery of the
 805 commissioner's orders to applicants for licenses and holders of licenses or permits in Code
 806 Section 48-17-6.

807 (c) In the case of a suspension or revocation in accordance with this Code section, the
 808 commissioner shall require the business owner or business operator to post a notice in the
 809 business location setting out the period of the suspension or revocation. No applicant or
 810 holder of a license or permit shall allow a bona fide coin operated amusement machine
 811 under the control of such applicant or holder of a license or permit to be placed in a
 812 business location owned or operated by a business owner or business operator who has
 813 been penalized by a suspension or revocation during the period of the suspension or
 814 revocation.

815 48-17-17.

816 (a) Provided that the business owner or business operator and the owner or operator of a
817 bona fide coin operated amusement machine, as defined in Code Section 48-17-1, have
818 complied with the provisions of Code Section 16-12-35 and of this chapter, the governing
819 authority of the county or municipal corporation where such bona fide coin operated
820 amusement machine is located is not authorized to:

821 (1) Prohibit the possession, use, or offering to the public of such a bona fide coin
822 operated amusement machine in any lawful business; or

823 (2) Establish the number of bona fide coin operated amusement machines in any lawful
824 business except as otherwise provided in paragraph (1) of subsection (b) of this Code
825 section.

826 (b) The governing authority of any county or municipal corporation is authorized to enact
827 and enforce an ordinance which includes, but is not limited to, any or a combination of the
828 following provisions:

829 (1) Permitting the offering to the public of more than nine bona fide coin operated
830 amusement machines that reward the player exclusively with noncash merchandise,
831 prizes, toys, gift certificates, or novelties at the same business location;

832 (2) Requiring the owner or operator of a business location which offers to the public any
833 bona fide coin operated amusement machine which rewards the player exclusively as
834 described in subsection (d) of Code Section 16-12-35 to inform all employees of the
835 prohibitions and penalties set out in subsections (e) and (f) of Code Section 16-12-35;

836 (3) Requiring the owner or possessor of any bona fide coin operated amusement machine
837 which rewards the player exclusively as described in subsection (d) of Code
838 Section 16-12-35 to inform each business owner or business operator of the business
839 location where such machine is located of the prohibitions and penalties set out in
840 subsections (e) and (f) of Code Section 16-12-35;

841 (4) Providing for penalties, including fines or suspension or revocation of a license as
842 provided in paragraph (5) of this subsection, or both, for a violation of any ordinance
843 enacted pursuant to this subsection; provided, however, that a municipal corporation is
844 not authorized to impose any penalty greater than the maximum penalty authorized by
845 such municipal corporation's charter;

846 (5) Providing for the suspension or revocation of a license granted by such local
847 governing authority to manufacture, distribute, or sell alcoholic beverages or for the
848 suspension or revocation of any other license granted by such local governing authority
849 as a penalty for conviction of the business owner or business operator of a violation of
850 subsection (e) of Code Section 16-12-35, or both. An ordinance providing for the
851 suspension or revocation of a license shall conform to the due process guidelines for

852 granting, refusal, suspension, or revocation of a license for the manufacture, distribution,
 853 or sale of alcoholic beverages set out in subsection (b) of Code Section 3-3-2;
 854 (6) Requiring any business owner or business operator subject to Code Section 48-17-15
 855 to provide to the local governing authority a copy of each verified monthly report
 856 prepared in accordance with such Code section, incorporating the provisions of such
 857 Code section in the ordinance, and providing for any and all of the penalties authorized
 858 by Code Section 48-17-15;
 859 (7) Requiring the business owner or business operator of any business location which
 860 offers to the public one or more bona fide coin operated amusement machines to post
 861 prominently a notice including the words set forth in subsection (d.1) of Code
 862 Section 48-17-2 for inclusion on a master license for bona fide coin operated amusement
 863 machines or words that are substantially similar;
 864 (8) Providing for restrictions relating to distance from specified structures or uses, so
 865 long as those distance requirements are no more restrictive than such requirements
 866 applicable to the sale of alcoholic beverages;
 867 (9) Requiring, as a condition for doing business in the jurisdiction, disclosure by the
 868 business owner or business operator of the name and address of the owner of the bona
 869 fide coin operated amusement machine or machines; and
 870 (10) Imposing age restrictions on players of Class B bona fide coin operated amusement
 871 machines."

872 **SECTION 20.**

873 Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public
 874 disclosure of public records is not required, is amended by revising subsection (a) by striking
 875 "or" at the end of paragraph (21), striking the period at the end of paragraph (22) and
 876 inserting in lieu thereof "; or", and adding a new paragraph to read as follows:

877 "(23) Records that show the names and addresses of persons and entities who hold a
 878 location permit for one or more bona fide coin operated amusement machines in
 879 accordance with Chapter 17 of Title 48, except that such records may be inspected by
 880 representatives of law enforcement agencies or local governments."

881 **SECTION 21.**

882 This Act shall not be construed to prohibit the Georgia Lottery Corporation from offering to
 883 the public any game which is otherwise authorized by the Constitution and laws of this state.

884 **SECTION 22.**

885 This Act shall become effective upon its approval by the Governor or upon its becoming law
886 without such approval.

887 **SECTION 23.**

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