

The House Committee on Judiciary Non-civil offers the following substitute to SB 19:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to  
2 offenses against public health and morals, so as to revise a definition; to provide for the  
3 applicability of certain provisions to certain games and devices; to amend Title 48 of the  
4 Official Code of Georgia Annotated, relating to revenue and taxation, so as to revise and add  
5 definitions relating to coin operated amusement machines; to provide for fees; to authorize  
6 the commissioner of revenue to retain a portion of certain fees as administrative costs; to  
7 provide that the commissioner is not authorized to impose any additional fee; to provide an  
8 exception from a limitation on the allowable number of such machines at the same location;  
9 to provide for related matters; to provide for an effective date and applicability; to repeal  
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against  
14 public health and morals, is amended by revising paragraph (4) of Code Section 16-12-20,  
15 relating to definitions, as follows:

16 "(4) 'Lottery' means any scheme or procedure whereby one or more prizes are distributed  
17 by chance among persons who have paid or promised consideration for a chance to win  
18 such prize, whether such scheme or procedure is called a pool, lottery, raffle, gift, gift  
19 enterprise, sale, policy game, or by some other name. Except as otherwise provided in  
20 Code Section 16-12-35, a lottery shall also include the payment of cash or other  
21 consideration or the payment for merchandise and the option to participate in or play,  
22 even if others can participate or play for free, a no skill game or to participate for cash or  
23 noncash prizes by lot or in a finite pool on a computer, mechanical device, or electronic  
24 device whereby the player is able to win a cash or noncash prize. A lottery shall also  
25 include the organization of chain letter or pyramid clubs as provided in Code  
26 Section 16-12-38. A lottery shall not mean a:

27 (A) Promotional giveaway or contest which conforms with the qualifications of a  
 28 lawful promotion specified in paragraph (16) of subsection (b) of Code  
 29 Section 10-1-393;

30 (B) Scheme whereby a business gives away prizes to persons selected by lot if such  
 31 prizes are made on the following conditions:

32 (i) Such prizes are conducted as advertising and promotional undertakings in good  
 33 faith solely for the purpose of advertising the goods, wares, and merchandise of such  
 34 business; and

35 (ii) No person to be eligible to receive such prize shall be required to:

36 (I) Pay any tangible consideration to the operator of such business in the form of  
 37 money or other property or thing of value;

38 (II) Purchase any goods, wares, merchandise, or anything of value from such  
 39 business; or

40 (III) Be present or be asked to participate in a seminar, sales presentation, or any  
 41 other presentation, by whatever name denominated, in order to win such prizes; ~~or~~

42 (C) Raffle authorized under Code Section 16-12-22.1; ~~or~~

43 (D) National promotion, contest, or sweepstakes conducted by any corporation or  
 44 wholly owned subsidiary of such corporation, provided that, at the time of such  
 45 promotion, contest, or sweepstakes, such corporation:

46 (i) Is registered under the federal Securities Exchange Act of 1934; and

47 (ii) Has total assets of not less than \$50 million."

48 **SECTION 2.**

49 Said chapter is further amended by adding a new subsection to Code Section 16-12-35,  
 50 relating to applicability of part, to read as follows:

51 "(k) All games and devices subject to this Code section shall comply with the provisions  
 52 of Chapter 17 of Title 48."

53 **SECTION 3.**

54 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
 55 amended by revising paragraphs (2.2) and (2.3) of Code Section 48-17-1, relating to  
 56 definitions relative to coin operated amusement machines, and adding a new paragraph to  
 57 read as follows:

58 "(2.2) 'Class A machine' means a bona fide coin operated amusement machine that is not  
 59 a Class B machine, does not allow a successful player to carry over points won on one  
 60 play to a subsequent play or plays, and:

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

- 62 (B) Rewards a successful player only with free replays or additional time to play;
- 63 (C) Rewards a successful player with noncash merchandise, prizes, toys, gift
- 64 certificates, or novelties in compliance with the provisions of subsection (c) or
- 65 paragraph (1) of subsection (d) of Code Section 16-12-35, and does not reward a
- 66 successful player with any item prohibited as a reward in subsection (i) of Code
- 67 Section 16-12-35 or any reward redeemable as an item prohibited as a reward in
- 68 subsection (i) of Code Section 16-12-35;
- 69 (D) Rewards a successful player with points, tokens, tickets, or other evidence of
- 70 winnings that may be exchanged only for items listed in subparagraph (C) of this
- 71 paragraph; or
- 72 (E) Rewards a successful player with any combination of items listed in
- 73 subparagraphs (B), (C), and (D) of this paragraph.
- 74 (2.3) 'Class B machine' means a bona fide coin operated amusement machine that
- 75 ~~rewards a successful player with any combination of items listed in subparagraphs~~
- 76 ~~(d)(1)(B) and (d)(1)(C) of Code Section 16-12-35~~ allows a successful player to accrue
- 77 points on the machine and carry over points won on one play to a subsequent play or
- 78 plays in accordance with paragraph (2) of subsection (d) of Code Section 16-12-35 and:
- 79 (A) Rewards a successful player in compliance with the provisions of paragraphs (1)
- 80 and (2) of subsection (d) of Code Section 16-12-35; and
- 81 (B) Does not reward a successful player with any item prohibited as a reward in
- 82 subsection (i) of Code Section 16-12-35 or any reward redeemable as an item
- 83 prohibited as a reward in subsection (i) of Code Section 16-12-35."
- 84 "(3.1) 'Gift certificate' means a document, electronic transmission, coupon, or other
- 85 medium of exchange, other than currency or a gift card. A gift certificate can be
- 86 exchanged for noncash merchandise, prizes, toys, or novelties for which applicable sales
- 87 or use tax may or may not be subtracted, subject to the limitations of subsections (h) and
- 88 (i) of Code Section 16-12-35."

#### 89 SECTION 4.

90 Said title is further amended by revising subsection (a) of Code Section 48-17-2, relating to

91 license fees regarding coin operated amusement machines, as follows:

92 "(a) Every owner, except an owner holding a bona fide coin operated amusement machine

93 solely for personal use or resale, who offers others the opportunity to play for a charge,

94 whether directly or indirectly, any bona fide coin operated amusement machine shall pay

95 annual master license fees as follows:

96 (1) For Class A machines:

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

98 In the event such owner acquires a sixth or greater number of machines during a  
 99 calendar year which require a certificate for lawful operation under this chapter so that  
 100 the total number of machines owned does not exceed 60 machines or more, such owner  
 101 shall pay an additional master license fee of \$1,500.00;

102 (B) For six or more machines but not more than 60 machines, the owner shall pay a  
 103 master license fee of \$2,000.00. In the event such owner acquires a sixty-first or  
 104 greater number of machines during a calendar year which require a certificate for lawful  
 105 operation under this chapter, such owner shall pay an additional master license fee of  
 106 \$1,500.00; or

107 (C) For 61 or more machines, the owner shall pay a master license fee of \$3,500.00;  
 108 and

109 (2) For any number of Class B machines, the owner shall pay a master license fee of  
 110 \$5,000.00.

111 The cost of the license shall be paid to the commissioner by company check, cash, cashier's  
 112 check, or money order, and the commissioner shall be authorized to retain as the cost of  
 113 administration an amount not to exceed \$75.00. Upon said payment, the commissioner  
 114 shall issue a master license certificate to the owner. The master license fee levied by this  
 115 Code section shall be collected by the commissioner on an annual basis for the period from  
 116 July 1 to June 30. The commissioner may establish procedures for master license  
 117 collection and set due dates for these license payments. No refund or credit of the master  
 118 license charge levied by this Code section may be allowed to any owner who ceases the  
 119 operation of bona fide coin operated amusement machines prior to the end of any license  
 120 or permit period. The fees imposed by this Code section shall not be revenue measures and  
 121 are imposed pursuant to Code Section 45-12-92.1."

## 122 SECTION 5.

123 Said title is further amended by revising subsection (a.1) of Code Section 48-17-2, relating  
 124 to license fees regarding coin operated amusement machines, and adding a new subsection  
 125 to read as follows:

126 "(a.1) Every business owner or business operator shall pay an annual location license fee  
 127 for each bona fide coin operated amusement machine offered to the public for play. The  
 128 annual location license fee shall be \$25.00 for each Class A machine and \$125.00 for each  
 129 Class B machine. The annual location license fee levied by this Code section shall be  
 130 collected by the commissioner on an annual basis from July 1 to June 30. The location  
 131 license fee shall be paid to the commissioner by company check, cash, cashier's check, or  
 132 money order, and the commissioner shall be authorized to retain from such fees as the cost  
 133 of administration an amount not to exceed 12 percent of such fees. Upon payment, the

134 commissioner shall issue a location license certificate that shall state the number of bona  
 135 fide coin operated amusement machines permitted for each class without further  
 136 description or identification of specific machines. The commissioner may establish  
 137 procedures for location license fee collection and set due dates for payment of such fees.  
 138 No refund or credit of the location license fee shall be allowed to any business owner or  
 139 business operator who ceases to offer bona fide coin operated amusement machines to the  
 140 public for commercial use prior the end of any license period. The fees imposed by this  
 141 Code section shall not be revenue measures and are imposed pursuant to Code Section  
 142 45-12-92.1.  
 143 (a.2) The commissioner shall not be authorized to impose any fee in addition to those fees  
 144 set forth in this chapter."

145 **SECTION 6.**

146 Said title is further amended by revising subsection (a) of Code Section 48-17-9, relating to  
 147 payment and collection of annual permit fee, as follows:

148 "(a) Every owner, except an owner holding a coin operated amusement machine solely for  
 149 personal use or resale, who offers others the opportunity to play for a charge, whether  
 150 direct or indirect, any bona fide coin operated amusement machine shall pay an annual  
 151 permit fee for each bona fide coin operated amusement machine in the amount of \$25.00  
 152 for each Class A machine and \$125.00 for each Class B machine. The fee shall be paid to  
 153 the commissioner by company check, cash, cashier's check, or money order, and the  
 154 commissioner shall be authorized to retain from such fees as the cost of administration an  
 155 amount not to exceed 12 percent of such fees. Upon payment, the commissioner shall issue  
 156 a sticker for each bona fide coin operated amusement machine. The annual fees levied by  
 157 this chapter shall be collected by the commissioner on an annual basis for the period from  
 158 July 1 to June 30. The commissioner may establish procedures for annual collection and  
 159 set due dates for the fee payments. No refund or credit of the annual fee levied by this  
 160 chapter shall be allowed to any owner who ceases the exhibition or display of any bona fide  
 161 coin operated amusement machine prior to the end of any license or permit period. The  
 162 fees imposed by this Code section shall not be revenue measures and are imposed pursuant  
 163 to Code Section 45-12-92.1."

164 **SECTION 7.**

165 Said title is further amended by revising paragraph (2) of subsection (b) of Code  
 166 Section 48-17-15, relating to limitations on percent of monthly gross retail receipts derived  
 167 from certain coin operated amusement machines, monthly verified reports, issuance of fine

168 or revocation or suspension of license for violations, and submission of electronic reports,  
 169 as follows:

170 "(2) Except as authorized by a local ordinance, no business owner or business operator  
 171 shall offer more than nine Class B bona fide coin operated amusement machines to the  
 172 public for play in the same business location; provided, however, that this limitation shall  
 173 not apply: ~~to an~~

174 (A) To an amusement or recreational establishment; or

175 (B) If the Class A bona fide coin operated amusement machines meet the following  
 176 criteria:

177 (i) The machines reward the player or players with tickets, tokens, or other noncash  
 178 representations of value only redeemable for noncash merchandise within one of the  
 179 operator's licensed premises;

180 (ii) The outcome of the game involves some skill in its operation;

181 (iii) The award of tickets, tokens, or other noncash representations of value is based  
 182 solely on the player's success in achieving the object of the game or the player's score;

183 (iv) Only merchandise prizes are awarded;

184 (v) The average wholesale value of the prizes awarded in lieu of tickets or tokens for  
 185 a single play of such a machine does not exceed \$5.00; and

186 (vi) The redemption value of each ticket, token, or other noncash representation of  
 187 value that may be accumulated by a player or players to redeem prizes of greater  
 188 value does not exceed the cost of a single play of such a machine."

189 **SECTION 8.**

190 This Act shall become effective on July 1, 2011, and shall apply to conduct that occurs on  
 191 and after July 1, 2011. It is not the intention of this Act to abate any prosecution undertaken  
 192 for conduct occurring under the law in effect prior to such date, and any offense committed  
 193 before July 1, 2011, shall be prosecuted and punished under the statutes in effect at the time  
 194 the offense was committed.

195 **SECTION 9.**

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