

The Senate Regulated Industries and Utilities Committee offered the following substitute to HB 487:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to transfer responsibility for administration and enforcement of provisions
3 relating to coin operated amusement machines from the Department of Revenue to the
4 Georgia Lottery Corporation; to amend Chapter 27 of Title 50 of the Official Code of
5 Georgia Annotated, relating to a lottery for education, so as to provide for such transfer of
6 responsibility; to provide for findings of the General Assembly; to revise provisions relating
7 to such administration and enforcement; to provide for licensing of operators; to create the
8 Class B machine operators advisory board; to provide for a Class B accounting terminal; to
9 provide for procedures, conditions, and limitations; to provide for fees and penalties; to
10 provide for disposition of certain revenues; to amend Part 1 of Article 2 of Chapter 12 of
11 Title 16 of the Official Code of Georgia Annotated, relating to improper use of coin operated
12 amusement machines, so as to change certain provisions relating to definitions; to change
13 certain provisions regarding forfeiture of coin operated amusement machines; to amend
14 various other provisions of the Official Code of Georgia Annotated so as to conform related
15 cross-references; to state legislative intent with respect to the effect of this Act on maritime
16 vessels; to provide for an effective date; to provide for an automatic repeal upon a finding
17 of unconstitutionality; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **PART I**

20 **SECTION 1-1.**

21 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
22 amended by revising Chapter 17, relating to coin operated amusement machines, and
23 redesignating it as a new Article 3 of Chapter 27 of Title 50, relating to a lottery for
24 education, as follows:

~~"CHAPTER 17~~ ARTICLE 3

Part 1

~~48-17-1. 50-27-70.~~

(a) The General Assembly finds that the ability to operate a bona fide coin operated amusement machine business in this state constitutes a privilege and not a right. Further, in order to prevent the unregulated operation of the bona fide coin operated amusement machine business, the General Assembly is enacting the procedural enhancements of this article which will aid in the enforcement of the tax obligations that arise from the operation of bona fide coin operated amusement machine businesses as well as prevent unauthorized cash payouts. The General Assembly finds that the bona fide coin operated amusement machine business can be conducted in a manner to safeguard the fiscal soundness of the state, enhance public welfare, and support the need to educate Georgia's children through the HOPE scholarship program and pre-kindergarten funding authorized by Article I, Section II, Paragraph VIII of the Constitution.

(b) As used in this chapter article, the term:

(1) 'Applicant' or 'licensee' means an owner as defined in this Code section, including an owner's officers, directors, shareholders, individuals, members of any association or other entity not specified, and, when applicable in context, the business entity itself.

(2)(A) 'Bona fide coin operated amusement machine' means:~~(A) Every~~ every machine of any kind or character used by the public to provide amusement or entertainment whose operation requires the payment of or the insertion of a coin, bill, other money, token, ticket, card, or similar object and the result of whose operation depends in whole or in part upon the skill of the player, whether or not it affords an award to a successful player pursuant to subsections (b) through (g) of Code Section 16-12-35, and which can be legally shipped interstate according to federal law. Examples of bona fide coin operated amusement machines include, but are expressly not limited to, the following:

- (i) Pinball machines;
- (ii) Console machines;
- (iii) Video games;
- (iv) Crane machines;
- (v) Claw machines;
- (vi) Pusher machines;
- (vii) Bowling machines;
- (viii) Novelty arcade games;
- (ix) Foosball or table soccer machines;
- (x) Miniature racetrack, football, or golf machines;
- (xi) Target or shooting gallery machines;

- 62 (xii) Basketball machines;
 63 (xiii) Shuffleboard games;
 64 (xiv) Kiddie ride games;
 65 (xv) Skee-ball machines;
 66 (xvi) Air hockey machines;
 67 (xvii) Roll down machines;
 68 (xviii) Trivia machines;
 69 (xix) Laser games;
 70 (xx) Simulator games;
 71 (xxi) Virtual reality machines;
 72 (xxii) Maze games;
 73 (xxiii) Racing games;
 74 (xxiv) Coin operated pool tables or coin operated billiard tables as defined in
 75 paragraph (3) of Code Section 43-8-1; and
 76 (xxv) Any other similar amusement machine which can be legally operated in
 77 Georgia; ~~and,~~

78 ~~(B) Every~~ The term also means machine of any kind or character used by the public
 79 to provide music whose operation requires the payment of or the insertion of a coin,
 80 bill, other money, token, ticket, card, or similar object such as jukeboxes or other
 81 similar types of music machines.

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

- 84 (i) Coin operated washing machines or dryers;
 85 (ii) Vending machines which for payment of money dispense products or services;
 86 (iii) Gas and electric meters;
 87 (iv) Pay telephones;
 88 (v) Pay toilets;
 89 (vi) Cigarette vending machines;
 90 (vii) Coin operated scales;
 91 (viii) Coin operated gumball machines;
 92 (ix) Coin operated parking meters;
 93 (x) Coin operated television sets which provide cable or network programming;
 94 (xi) Coin operated massage beds; and
 95 (xii) Machines which are not legally permitted to be operated in Georgia.

96 ~~(2.1) 'Business owner or business operator' means an owner or operator of a business~~
 97 ~~where one or more bona fide coin operated amusement machines are available for~~
 98 ~~commercial use and play by the public.~~

99 ~~(2.2)~~(3) 'Class A machine' means a bona fide coin operated amusement machine that is
 100 not a Class B machine, does not allow a successful player to carry over points won on one
 101 play to a subsequent play or plays, and:

102 (A) Provides no reward to a successful player;

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

104 (C) Rewards a successful player with noncash merchandise, prizes, toys, gift
 105 certificates, or novelties in compliance with the provisions of subsection (c) or
 106 paragraph (1) of subsection (d) of Code Section 16-12-35, and does not reward a
 107 successful player with any item prohibited as a reward in subsection (i) of Code Section
 108 16-12-35 or any reward redeemable as an item prohibited as a reward in subsection (i)
 109 of Code Section 16-12-35;

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

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

115 ~~(2.3)~~(4) 'Class B machine' means a bona fide coin operated amusement machine that
 116 allows a successful player to accrue points on the machine and carry over points won on
 117 one play to a subsequent play or plays in accordance with paragraph (2) of subsection (d)
 118 of Code Section 16-12-35 and:

119 (A) Rewards a successful player in compliance with the provisions of paragraphs (1)
 120 and (2) of subsection (d) of Code Section 16-12-35; and

121 (B) Does not reward a successful player with any item prohibited as a reward in
 122 subsection (i) of Code Section 16-12-35 or any reward redeemable as an item
 123 prohibited as a reward in subsection (i) of Code Section 16-12-35.

124 ~~(3)~~(5) ~~'Commissioner' means the state revenue commissioner.~~ 'Distributor' means a
 125 person, individual, partnership, corporation, limited liability company, or any other
 126 business entity that buys, sells, or distributes Class B machines to or from operators.

127 ~~(3.1)~~(6) 'Location license' means the initial and annually renewed license which every
 128 ~~business location~~ business location owner or ~~business location~~ business location operator must purchase and display in the
 129 location where one or more bona fide coin operated amusement machines are available
 130 for commercial use by the public for play in order to operate legally any such machine
 131 in this state.

132 ~~(3.2)~~(7) 'Location license fee' means the fee paid to obtain the location license.

133 (8) 'Location owner or location operator' means an owner or operator of a business where
 134 one or more bona fide coin operated amusement machines are available for commercial
 135 use and play by the public.

136 (9) 'Manufacturer' means a person, individual, partnership, corporation, limited liability
 137 company, or any other business entity that supplies and sells major components or parts,
 138 including software, hardware, or both, to Class B machine distributors or operators.

139 ~~(4)~~(10) 'Master license' means the certificate which every owner of a bona fide coin
 140 operated amusement machine must purchase and display in the owner's or operator's
 141 place of business where the machine is located for commercial use by the public for play
 142 in order to legally operate the machine in the state.

143 ~~(4.1)~~(11) 'Net receipts' means the entire amount of moneys received from the public for
 144 play of an amusement machine, minus the amount of expenses for noncash redemption
 145 of winnings from the amusement machine, and minus the amount of moneys refunded to
 146 the public for ~~malfunction~~ bona fide malfunctions of the amusement machine.

147 ~~(5)~~(12) 'Operator' means any person, individual, firm, company, association, corporation,
 148 or other business entity ~~who~~ that exhibits, displays, or permits to be exhibited or
 149 displayed, in a place of business other than his own, any bona fide coin operated
 150 amusement machine in this state.

151 ~~(6)~~(13) 'Owner' means any person, individual, firm, company, association, corporation,
 152 or other business entity owning any bona fide coin operated amusement machine in this
 153 state.

154 ~~(7)~~(14) 'Permit fee' means the annual per machine charge which every owner of a bona
 155 fide coin operated amusement machine in commercial use must purchase and display in
 156 either the owner's or operator's place of business in order to legally operate the machine
 157 in the state.

158 (15) 'Person' means an individual, any corporate entity or form authorized by law
 159 including any of its subsidiaries or affiliates, or any officer, director, board member, or
 160 employee of any corporate entity or form authorized by law.

161 ~~(7.1)~~(16) 'Single play' or 'one play' means the completion of a sequence of a game, or
 162 replay of a game, where the player receives a score and from the score the player can
 163 secure free replays, merchandise, points, tokens, vouchers, tickets, cards, or other
 164 evidence of winnings as set forth in subsection (c) or (d) of Code Section 16-12-35. A
 165 player may, but is not required to, exchange a score for rewards permitted by
 166 subparagraphs ~~(A), (B), (C), and (D)~~ of paragraph ~~(d)(1)~~ (d)(1)(A) through (d)(1)(D) of
 167 Code Section 16-12-35 after each play.

168 ~~(9)~~(17) 'Slot machine or any simulation or variation thereof' means any contrivance
 169 which, for a consideration, affords the player an opportunity to obtain money or other
 170 thing of value, the award of which is determined solely by chance, whether or not a prize
 171 is automatically paid by the contrivance.

172 ~~(8)~~(18) 'Sticker' means the decal issued for every bona fide coin operated amusement
173 machine to show proof of payment of the permit fee.

174 ~~(10)~~(19) 'Successful player' means an individual who wins on one or more plays of a
175 bona fide coin operated amusement machine.

176 ~~(11)~~(20) 'Temporary location permit' means the permit which every business location
177 owner or business location operator must purchase and display in the location where one
178 or more bona fide coin operated amusement machines are available for commercial use
179 by the public for play in order to operate legally the machine or machines in this state for
180 seven days or less. Such temporary location permits shall be subject to the same
181 regulations and conditions as location licenses.

182 ~~48-17-2; 50-27-71.~~

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

187 (1) For Class A machines:

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

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

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

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

200 (2) For any number of Class B machines, the owner shall pay a master license fee of
201 \$5,000.00.

202 The cost of the license shall be paid to the ~~commissioner~~ corporation by company check,
203 cash, cashier's check, ~~or~~ money order, or any other method approved by the chief executive
204 officer. Upon ~~said~~ such payment, the ~~commissioner~~ corporation shall issue a master license
205 certificate to the owner. The master license fee levied by this Code section shall be
206 collected by the ~~commissioner~~ corporation on an annual basis for the period from July 1
207 to June 30. The ~~commissioner~~ board may establish procedures for master license collection

208 and set due dates for these license payments. No refund or credit of the master license
 209 charge levied by this Code section may be allowed to any owner who ceases the operation
 210 of bona fide coin operated amusement machines prior to the end of any license or permit
 211 period.

212 (a.1) Every business location owner or business location operator shall pay an annual
 213 location license fee for each bona fide coin operated amusement machine offered to the
 214 public for play. The annual location license fee shall be \$25.00 for each Class A machine
 215 and \$125.00 for each Class B machine. The annual location license fee levied by this Code
 216 section shall be collected by the commissioner corporation on an annual basis from July
 217 1 to June 30. The location license fee shall be paid to the commissioner corporation by
 218 company check, cash, cashier's check, ~~or money order,~~ or any other method approved by
 219 the chief executive officer. Upon payment, the commissioner corporation shall issue a
 220 location license certificate that shall state the number of bona fide coin operated
 221 amusement machines permitted for each class without further description or identification
 222 of specific machines. The commissioner board may establish procedures for location
 223 license fee collection and set due dates for payment of such fees. No refund or credit of
 224 the location license fee shall be allowed to any business location owner or business location
 225 operator who ceases to offer bona fide coin operated amusement machines to the public for
 226 commercial use prior the end of any license period.

227 (a.2) The corporation may refuse to issue or renew a location owner or location operator
 228 license or may revoke or suspend a location owner or location operator license issued under
 229 this article if:

230 (1) The licensee or applicant has intentionally violated a provision of this chapter or a
 231 regulation promulgated under this chapter;

232 (2) The licensee or applicant has intentionally failed to provide requested information
 233 or answer a question, intentionally made a false statement in or in connection with his or
 234 her application or renewal, or omitted any material or requested information;

235 (3) The licensee or applicant used coercion to accomplish a purpose or to engage in
 236 conduct regulated by the corporation;

237 (4) Failure to revoke or suspend the license would be contrary to the intent and purpose
 238 of this article;

239 (5) The licensee or applicant has engaged in unfair methods of competition and unfair
 240 or deceptive acts or practices as provided in Code Section 50-27-87.1; or

241 (6) Any applicant, or any person, firm, corporation, legal entity, or organization having
 242 any interest in any operation for which an application has been submitted, fails to meet
 243 any obligations imposed by the tax laws or other laws or regulations of this state.

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

249 (c) Each master license and each location license shall list the name and address of the
 250 owner or ~~business~~ location owner or ~~business~~ location operator, as applicable.

251 (d) The ~~commissioner~~ corporation may provide a duplicate original master license
 252 certificate or location license certificate if the original certificate has been lost, stolen, or
 253 destroyed. The fee for a duplicate original certificate is \$100.00. If the original certificate
 254 is lost, stolen, or destroyed, a sworn, written statement must be submitted explaining the
 255 circumstances by which the certificate was lost, stolen, or destroyed and including the
 256 number of the lost, stolen, or destroyed certificate, if applicable, before a duplicate original
 257 certificate can be issued. A certificate for which a duplicate certificate has been issued is
 258 void.

259 (e) A license or permit issued under this Code section:

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

261 (2) Vests no property or right in the holder of the license or permit except to conduct the
 262 licensed or permitted business during the period the license or permit is in effect;

263 (3) Is nontransferable, nonassignable by and between owners or ~~business~~ location owners
 264 and ~~business~~ location operators, and not subject to execution; and

265 (4) Expires upon the death of an individual holder of a license or permit or upon the
 266 dissolution of any other holder of a license or permit.

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

269 (g) Acceptance of a license or permit issued under this Code section constitutes consent
 270 by the licensee and the ~~business~~ location owner or ~~business~~ location operator of the
 271 business where bona fide coin operated amusement machines are available for commercial
 272 use and for play by the public that the ~~commissioner or the commissioner's~~ corporation's
 273 agents may freely enter the business premises where the licensed and permitted machines
 274 are located during normal business hours for the purpose of ensuring compliance with this
 275 ~~chapter~~ article.

276 (h) An application for a license or permit to do business under this ~~chapter~~ article shall
 277 contain a complete statement regarding the ownership of the business to be licensed or the
 278 business where the permitted machines are to be located. This statement of ownership shall
 279 specify the same information that is required by the application to secure a sales tax
 280 number for the State of Georgia.

281 (i) An application for a master license shall be accompanied by either the annual or
 282 semiannual fee plus the required permit fee due for each machine. Additional per machine
 283 permits can be purchased during the year if needed by the owner. An application for a
 284 location license shall be accompanied by the appropriate fee.

285 (j) An application is subject to public inspection.

286 (k) A renewal application filed on or after July 1, but before the license expires, shall be
 287 accompanied by a late fee of \$125.00. A master license or location license that has been
 288 expired for more than 90 days may not be renewed. In such a case, the owner shall obtain
 289 a new master license or the ~~business~~ location owner or ~~business~~ location operator shall
 290 obtain a new location license, as applicable, by complying with the requirements and
 291 procedures for obtaining an original master license or location license.

292 (l) A holder of a license who properly completes the application and remits all fees with
 293 it by the due date may continue to operate bona fide coin operated amusement machines
 294 after the expiration date if its license or permit renewal has not been issued, unless the
 295 holder of the license is notified by the ~~commissioner~~ corporation prior to the expiration
 296 date of a problem with the renewal.

297 (m) Holders of location licenses and temporary location permits shall be subject to the
 298 same provisions of this ~~chapter~~ article with regard to refunds, license renewals, license
 299 suspensions, and license revocations as are holders of master licenses.

300 (n) Failure to obtain a master license or location license as required by this Code section
 301 shall subject the person to a fine of up to \$25,000.00 and repayment of all fees or receipts
 302 due to the corporation pursuant to this article and may subject the person to a loss of all
 303 state licenses.

304 ~~48-17-3. 50-27-72.~~

305 (a) No refund is allowed for a master license except as follows:

306 (1) The owner makes a written request to the ~~commissioner~~ corporation for a refund
 307 prior to the beginning of the calendar year for which it was purchased;

308 (2) The owner makes a written request prior to the issuance of the master license or
 309 registration certificate;

310 (3) The owner makes a written request for a refund claiming the master license or
 311 registration certificate was mistakenly purchased due to reliance on incorrect information
 312 from the ~~commissioner~~ corporation;

313 (4) The processing of the master license is discontinued; or

314 (5) The issuance of the master license is denied.

315 (b) Before a refund will be allowed if the renewal of a master license is denied, the
 316 ~~commissioner~~ corporation shall verify that the applicant has no machines in operation and

317 does not possess any machines except those that are exempt from the fees. If a master
 318 license is not issued, the ~~commissioner~~ corporation may retain \$100.00 to cover
 319 administrative costs.

320 (c) No refund will be allowed if the owner has an existing liability for any other fees or
 321 taxes due. Any refund will be applied to the existing liability due.

322 ~~48-17-4. 50-27-73.~~

323 (a) The ~~commissioner~~ corporation shall not renew a master, location owner, or location
 324 operator license for a business under this ~~chapter~~ article and shall suspend for any period
 325 of time or cancel a master, location owner, or location operator license if the ~~commissioner~~
 326 corporation finds that the applicant or licensee is indebted to the state for any fees, costs,
 327 penalties, or delinquent fees.

328 (b) The ~~commissioner~~ corporation shall not issue or renew a license for a business under
 329 this ~~chapter~~ article if the applicant does not designate and maintain an office in this state
 330 or if the applicant does not permit inspection by the ~~commissioner~~ corporation's agents of
 331 his or her place of business or of all records which the applicant or licensee is required to
 332 maintain.

333 (c) The ~~commissioner~~ corporation may refuse to issue or renew a master license or may
 334 revoke or suspend a master license issued under this chapter if:

335 (1) The licensee or applicant has intentionally violated a provision of this chapter or a
 336 regulation promulgated under this chapter;

337 (2) The licensee or applicant has intentionally failed to provide requested information
 338 or answer a question, or has intentionally made a false statement in or in connection with
 339 his or her application or renewal, or omitted any material or requested information;

340 (3) The licensee or applicant used coercion to accomplish a purpose or to engage in
 341 conduct regulated by the ~~commissioner~~ corporation;

342 (4) A licensee or applicant ~~that~~ allows the use of its master license certificate or per
 343 machine permit stickers by any other business entity or person who owns or operates
 344 bona fide coin operated amusement machines available for commercial use and available
 345 to the public for play. If such unauthorized use occurs, the ~~commissioner~~ corporation
 346 may fine the licensee as follows:

347 (A) One ~~hundred and fifty~~ thousand dollars for each improper use of a per machine
 348 permit sticker; and

349 (B) ~~One~~ Twenty-five thousand dollars for each improper use of a master license
 350 certificate.

351 In addition, the ~~commissioner~~ corporation is authorized to seize the machines in question
 352 and assess the master license and permit fees as required by law and to assess the costs
 353 of such seizure to the owner or operator of the machines; ~~or~~

354 (5) Failure to suspend or revoke the license would be contrary to the intent and purpose
 355 of this ~~chapter~~ article;

356 (6) The licensee or applicant has engaged in unfair methods of competition and unfair
 357 or deceptive acts or practices as provided in Code Section 50-27-87.1; or

358 (7) Any applicant, or any person, firm, corporation, legal entity, or organization having
 359 any interest in any operation for which an application has been submitted, fails to meet
 360 any obligations imposed by the tax laws or other laws or regulations of this state.

361 (d) The ~~commissioner~~ corporation, on the request of a licensee or applicant for a license,
 362 shall conduct a hearing to ascertain whether a licensee or applicant for a license has
 363 engaged in conduct which would be grounds for revocation, suspension, or refusal to issue
 364 or renew a license.

365 (e) The corporation shall not limit the number of master licenses it can issue. Except as
 366 provided in this subsection, the corporation shall not issue any new Class B master licenses
 367 until one year after it certifies that the Class B accounting terminal authorized by Code
 368 Section 50-27-101 is implemented; provided, however, the corporation shall be permitted
 369 to renew Class B master licenses at any time.

370 ~~48-17-5: 50-27-74.~~

371 (a) An applicant or licensee is entitled to at least 30 days' written notice and, if requested,
 372 a hearing in the following instances:

373 (1) After an application for an original or renewal license has been refused;

374 (2) Before the ~~commissioner~~ corporation may revoke a license; or

375 (3) Before the ~~commissioner~~ corporation may invoke any other sanctions provided by
 376 this ~~chapter~~ article. For purposes of this paragraph, sanctions shall not include:

377 (A) Issuance of a citation;

378 (B) Imposition of a late fee, penalty fee, or interest penalty under subsection (k) of
 379 Code Section ~~48-17-2~~ 50-27-71, Code Section ~~48-17-11~~ 50-27-80, or subsection (a) of
 380 Code Section ~~48-17-13~~ 50-27-82; or

381 (C) Sealing a machine or imposing charges related thereto under subsection ~~(g)~~(f) of
 382 Code Section ~~48-17-13~~ 50-27-82.

383 (b) The written notice provided by this Code section may be served personally by the
 384 ~~commissioner~~ chief executive officer or an authorized representative of the corporation or
 385 sent by United States certified mail or statutory overnight delivery addressed to the
 386 applicant, licensee, or registration certificate holder at its last known address. In the event

387 that notice cannot be effected by either of these methods after due diligence, the
 388 ~~commissioner~~ chief executive officer may prescribe any reasonable method of notice
 389 calculated to inform a person of average intelligence and prudence of the ~~commissioner's~~
 390 corporation's action, including publishing the notice in a newspaper of general circulation
 391 in the area in which the applicant, licensee, or registration certificate holder conducts its
 392 business activities. The written notice shall state with particularity the basis upon which
 393 the ~~commissioner~~ corporation is taking the proposed actions.

394 (c) Subject to approval by the chief executive officer and corporation, the Bona Fide Coin
 395 Operated Amusement Machine Operator Advisory Board shall establish a procedure for
 396 hearings required by this article. Such procedure shall empower the chief executive officer
 397 with the authority to delegate or appoint any person or public agency to preside over the
 398 hearing and adjudicate the appeal, and the procedure shall identify the party responsible for
 399 entering a final decision for the corporation.

400 ~~48-17-6.~~ 50-27-75.

401 (a) The ~~commissioner~~ corporation shall deliver to the applicant or licensee a written copy
 402 of the order refusing an application or renewal application, revoking a master license, or
 403 imposing any other sanction provided in this ~~chapter~~ article issued after any required
 404 hearing provided by Code Section 50-27-74.

405 (b) Delivery of the ~~commissioner's~~ corporation's order may be given by:

- 406 (1) Personal service upon an individual applicant or licensee;
- 407 (2) Personal service upon any officer, director, partner, trustee, or receiver, as the case
 408 may be;
- 409 (3) Personal service upon the person in charge of the business premises, temporarily or
 410 otherwise, of the applicant or licensee;
- 411 (4) Sending such notice by United States certified mail or statutory overnight delivery
 412 addressed to the business premises of the applicant or licensee; or
- 413 (5) Posting notice upon the outside door of the business premises of the applicant or
 414 licensee.

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

417 ~~48-17-7.~~ 50-27-76.

418 (a) Appeal by an affected person from all actions of the ~~commissioner~~ corporation or chief
 419 executive officer shall be to the Superior Court of Fulton County ~~or the superior court~~
 420 ~~where the owner has the machines located at the time that the action has been taken by the~~

421 ~~commissioner~~. The review shall be conducted by the court and shall be confined to the
422 record.

423 (b) The court shall not substitute its judgment for that of the ~~commissioner corporation or~~
424 ~~chief executive officer~~ as to the weight of the evidence on questions of fact committed to
425 the discretion of the ~~commissioner corporation or chief executive officer~~. The court may
426 affirm the decision of the ~~commissioner corporation or chief executive officer~~ in whole or
427 in part; the court shall reverse or remand the case for further proceedings if substantial
428 rights of the appellant have been prejudiced because the ~~commissioner's corporation's or~~
429 ~~chief executive officer's~~ findings, inferences, conclusions, or decisions are:

- 430 (1) In violation of constitutional or statutory provisions;
431 (2) In excess of the statutory authority of the ~~commissioner corporation or chief~~
432 ~~executive officer~~;
433 (3) Made upon unlawful procedures;
434 (4) Affected by other error of law;
435 (5) Not reasonably supported by substantial evidence in view of the reliable and
436 probative evidence in the record as a whole; or
437 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted
438 exercise of discretion.

439 ~~48-17-8: 50-27-77.~~

440 Appeal from any final judgment of the ~~superior court~~ Superior Court of Fulton County may
441 be taken by any party, including the ~~commissioner corporation~~, in the manner provided for
442 in civil actions generally.

443 ~~48-17-9: 50-27-78.~~

444 (a) Every owner, except an owner holding a coin operated amusement machine solely for
445 personal use or resale, who offers others the opportunity to play for a charge, whether
446 direct or indirect, any bona fide coin operated amusement machine shall pay an annual
447 permit fee for each bona fide coin operated amusement machine in the amount of \$25.00
448 for each Class A machine and \$125.00 for each Class B machine. The fee shall be paid to
449 the ~~commissioner corporation~~ by company check, cash, cashier's check, ~~or~~ money order,
450 ~~or any other method approved by the chief executive officer~~. Upon payment, the
451 ~~commissioner corporation~~ shall issue a sticker for each bona fide coin operated amusement
452 machine. The annual fees levied by this ~~chapter~~ article shall be collected by the
453 ~~commissioner corporation~~ on an annual basis for the period from July 1 to June 30. The
454 ~~commissioner board~~ may establish procedures for annual collection and set due dates for
455 the fee payments. No refund or credit of the annual fee levied by this ~~chapter~~ article shall

456 be allowed to any owner who ceases the exhibition or display of any bona fide coin
457 operated amusement machine prior to the end of any license or permit period.

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

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

468 (d) The ~~commissioner~~ corporation may provide a duplicate permit sticker if a valid permit
469 sticker has been lost, stolen, or destroyed. The fee for a duplicate permit sticker shall be
470 \$50.00. If a permit sticker is lost, stolen, or destroyed, a sworn, written statement must be
471 submitted explaining the circumstances by which the permit sticker was lost, stolen, or
472 destroyed and including the number of the lost, stolen, or destroyed permit before a
473 replacement permit can be issued. A permit for which a duplicate permit sticker has been
474 issued is void.

475 (e) Each permit sticker issued for a bona fide coin operated amusement machine which
476 rewards a winning player exclusively with free replays, noncash redemption merchandise,
477 prizes, toys, gift certificates, or novelties; or points, tokens, tickets, cards, or other evidence
478 of winnings that may be exchanged for free replays or noncash redemption merchandise,
479 prizes, toys, gift certificates, or novelties, in accordance with the provisions of subsections
480 (b) through (d) of Code Section 16-12-35 shall include the following: 'GEORGIA LAW
481 PROHIBITS THE PAYMENT OR RECEIPT OF ANY MONEY FOR REPLAYS OR
482 MERCHANDISE AWARDED FOR PLAYING THIS MACHINE. O.C.G.A. SECTION
483 16-12-35.'

484 (f) Nothing in this article shall be construed to provide any authority to the corporation to
485 limit the number of permits issued in this state or to limit the number of permits provided
486 to an operator, location owner, or location operator.

487 (g) The corporation shall not assess any fees that are not explicitly authorized under this
488 article on a manufacturer, distributor, operator, location owner, or location operator.

489 ~~48-17-10. 50-27-79.~~

490 No refund shall be allowed for the annual permit fee assessed on each bona fide coin
491 operated amusement machine registered with the ~~commissioner~~ corporation except as
492 follows:

493 (1) The owner makes a written request to the ~~commissioner~~ corporation for a refund
494 prior to the beginning of the calendar year for which the permit sticker was purchased and
495 returns the permit sticker;

496 (2) The owner makes a written request for a refund prior to the issuance of the permit
497 sticker;

498 (3) The owner makes a written request for a refund claiming the permit sticker was
499 mistakenly purchased for a machine not subject to the permit fee and returns the permit
500 sticker; or

501 (4) The owner provides the ~~commissioner~~ corporation with a sworn affidavit that a
502 machine was sold, stolen, or destroyed prior to the beginning of the calendar year for
503 which the permit was purchased and returns the sticker unless it was attached to the
504 stolen or destroyed machine.

505 ~~48-17-11. 50-27-80.~~

506 If an owner purchases or receives additional bona fide coin operated amusement machines
507 during the calendar year, the applicable annual permit fee shall be paid to the ~~commissioner~~
508 corporation and the sticker shall be affixed to the machine before the machine may be
509 legally operated. A penalty fee equal to twice the applicable annual permit fee shall be
510 assessed by the ~~commissioner~~ corporation for every machine in operation without a permit
511 sticker.

512 ~~48-17-12. 50-27-81.~~

513 (a) The ~~commissioner~~ chief executive officer shall provide for the proper administration
514 of this ~~chapter~~ article and is authorized to act on behalf of the corporation for such purpose.
515 The ~~commissioner~~ chief executive officer may initiate investigations, hearings, and take
516 other necessary measures to ensure compliance with the provisions of this ~~chapter~~ article
517 or to determine whether violations exist. If the ~~commissioner~~ chief executive officer finds
518 evidence of any criminal violations, ~~the commissioner~~ he or she shall notify the appropriate
519 prosecuting attorney in the county in which such violation occurred.

520 (b) The ~~commissioner~~ chief executive officer is authorized to provide for the enforcement
521 of this ~~chapter~~ article and the board shall provide for collection of the revenues under this
522 ~~chapter~~ article by rule and regulation.

523 (c) The ~~commissioner~~ chief executive officer may delegate to an authorized representative
 524 any authority given to the ~~commissioner~~ chief executive officer by this ~~chapter~~ article,
 525 including the conduct of investigations, imposing of fees and fines, and the holding of
 526 hearings.

527 ~~48-17-13: 50-27-82.~~

528 (a) If any owner or operator of any bona fide coin operated amusement machine in this
 529 state shall violate any provision of this ~~chapter~~ article or any rule and regulation
 530 promulgated under this ~~chapter~~ article, the ~~commissioner~~ corporation may investigate the
 531 violation and may seek sanctions, including late fees of \$50.00 for failure to pay timely
 532 permit sticker fees, \$125.00 for failure to pay timely the master license fee, suspension or
 533 revocation of a license, seizure of equipment, interest penalty, and debarment for repeat
 534 offenders.

535 (b) No person other than an owner shall intentionally remove a current tax permit sticker
 536 from a bona fide coin operated amusement machine or from the location where the
 537 machine is located. Any person who violates this subsection shall be guilty of a
 538 misdemeanor.

539 (c) A person who owns or operates bona fide coin operated amusement machines without
 540 a current master license or without a permit sticker on display shall be guilty of a
 541 misdemeanor.

542 (d) A person who knowingly ~~secures or attempts to secure~~ makes a material false
 543 statement on any application or renewal application for a master license or permit sticker
 544 under this ~~chapter~~ article by fraud, misrepresentation, or subterfuge or makes a material
 545 false entry on any book, record, or report which is compiled, maintained, or submitted to
 546 the corporation pursuant to the provisions of this article is guilty of a felony and upon
 547 conviction thereof shall be punished by imprisonment for not less than one nor more than
 548 five years, a fine not to exceed \$25,000.00, or both.

549 (e) ~~Any person who knowingly uses a sticker for the purpose of engaging in unlawful~~
 550 ~~gambling shall be guilty of a misdemeanor.~~

551 (f) Any bona fide coin operated amusement machine not having the required master
 552 license or permit stickers may be seized and confiscated by the ~~commissioner~~ or his
 553 corporation's agents or employees and sold at public auction after 30 days' advertisement.
 554 Upon payment of the license required, the ~~commissioner~~ corporation may return any
 555 property so seized and confiscated and compromise any tax fee or penalty assessed. The
 556 owner from whom the bona fide coin operated amusement machine is seized may, at any
 557 time within ten days after the seizure, repossess the property by filing with the
 558 ~~commissioner~~ corporation a bond, in cash or executed by a surety company authorized to

559 do business in this state, in double amount of the tax and penalties due. Within 30 days
 560 after the bond has been filed, the owner must bring an action in a court of competent
 561 jurisdiction to have the seizure set aside; otherwise, the bond so filed ~~must~~ shall be declared
 562 forfeited to the ~~commissioner~~ corporation.

563 ~~(g)~~(f) The ~~commissioner~~ chief executive officer or an authorized representative of the
 564 ~~commissioner~~ thereof may seal in a manner that will prevent its full operation any such
 565 bona fide coin operated amusement machine that is in commercial use available to the
 566 public for play whose master license or sticker under this ~~chapter~~ article has been
 567 suspended or revoked, upon which the fee has not been paid, or that is not registered with
 568 the ~~commissioner~~ corporation under this ~~chapter~~ article. Whoever shall break the seal
 569 affixed by the ~~commissioner~~ chief executive officer or an authorized representative of the
 570 ~~commissioner~~ thereof without the ~~commissioner's~~ chief executive officer's approval or
 571 whoever shall provide in commercial use available to the public for play any such bona fide
 572 coin operated amusement machine after ~~said~~ the seal has been broken without the
 573 ~~commissioner's~~ chief executive officer's approval or whoever shall remove any bona fide
 574 coin operated amusement machine from its location after the same has been sealed by the
 575 ~~commissioner~~ chief executive officer shall be guilty of a misdemeanor. The ~~commissioner~~
 576 corporation shall charge a fee of \$75.00 for the release of any bona fide coin operated
 577 amusement machine which is sealed. The fee shall be paid to the ~~commissioner~~
 578 corporation.

579 ~~48-17-14. 50-27-83.~~

580 (a) All taxes, fees, penalties, and interest accruing to the State of Georgia under any other
 581 provision of ~~this title~~ Title 48 as it existed prior to July 1, 2010, shall be and remain valid
 582 and binding obligations to the State of Georgia for all taxes, penalties, and interest accruing
 583 under the provisions of prior or preexisting laws and all such taxes, penalties, and interest
 584 now or hereafter becoming delinquent to the State of Georgia prior to July 1, 2010, are
 585 expressly preserved and declared to be legal and valid obligations to the state.

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

590 (c) Nothing in this ~~chapter~~ article shall be construed or have the effect to license, permit,
 591 authorize, or legalize any machine, device, table, or bona fide coin operated amusement
 592 machine the keeping, exhibition, operation, display, or maintenance of which is in violation
 593 of the laws or Constitution of this state.

594 ~~48-17-15; 50-27-84.~~

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

596 (1) 'Amusement or recreational establishment' means an open-air establishment
597 frequented by the public for amusement or recreation. Such an establishment shall be in
598 a licensed fixed location located in this state and which has been in operation for at least
599 35 years.

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

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

607 (b)(1) No business location owner or business location operator shall derive more than
608 50 percent of such business location owner's or business location operator's monthly
609 gross retail receipts for the business location in which the Class B ~~bona fide coin operated~~
610 ~~amusement~~ machine or machines are situated from such Class B ~~bona fide coin operated~~
611 ~~amusement~~ machines.

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

616 (c) For each business location which offers to the public one or more Class B ~~bona fide~~
617 ~~coin operated~~ amusement machines, the business location owner or business location
618 operator shall prepare a monthly verified report setting out separately by location in
619 Georgia:

620 (1) The the gross retail receipts from the Class B ~~bona fide coin operated~~ amusement
621 machines; and

622 (2) The the gross retail receipts for the business location; and

623 (3) The net receipts of the Class B machines.

624 ~~Upon request, the business owner or business operator shall supply such monthly reports~~
625 ~~to the commissioner. The department shall be authorized to audit any records for any such~~
626 ~~business location.~~

627 (c.1) Each person holding a Class B master license shall prepare a monthly verified report
628 setting out separately by location in Georgia:

629 (1) The gross receipts from the Class B machines which the master licensee maintains;
630 and

631 (2) The net receipts of the Class B machines.

632 (d) In accordance with the provisions of Code Section ~~48-17-4~~ 50-27-73 and the
 633 procedures set out in Code Sections ~~48-17-5 and 48-17-6~~ 50-27-74 and 50-27-75, the
 634 ~~commissioner corporation~~ may fine an applicant or holder of a license, refuse to issue or
 635 renew a location license or master license, or revoke or suspend a location license or master
 636 license for single or repeated violations of subsection (b) of this Code section.

637 (e) A ~~business location~~ owner or ~~business location~~ operator shall report the information
 638 prescribed in this Code section in the form required by the ~~commissioner corporation~~.
 639 Such report shall be submitted in an electronic format approved by the ~~commissioner~~
 640 ~~corporation~~.

641 (f) Beginning on August 20, 2013, and on the twentieth day of each month thereafter, for
 642 the previous month, the reports required by subsections (c) and (c.1) of this Code section
 643 shall be supplied to the corporation on forms provided by the corporation, including
 644 electronic means. The corporation shall be authorized to audit any records for any such
 645 business location or master licensee subject to this Code section. The corporation may
 646 contract with any state agencies to perform the audits authorized by this Code section, and
 647 it may contract or enter into a memorandum of understanding with the Department of
 648 Revenue to enforce the provisions of this Code section.

649 ~~48-17-16. 50-27-85.~~

650 (a) ~~Except as specifically provided in this article, for~~ ~~For~~ single or repeated violations of
 651 this ~~chapter article~~ by a ~~business location~~ owner or ~~business location~~ operator who offers
 652 one or more bona fide coin operated amusement machines for play by the public, the
 653 ~~commissioner corporation~~ may impose the following penalties on such a ~~business location~~
 654 owner or ~~business location~~ operator:

655 (1) A civil fine in an amount specified in rules and regulations promulgated in
 656 accordance with this ~~chapter article~~; or

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

659 (b) Before a penalty is imposed in accordance with this Code section, a ~~business location~~
 660 owner or ~~business location~~ operator shall be entitled to at least 30 days' written notice and,
 661 if requested, a hearing as provided in Code Section 50-27-74. Such written notice shall be
 662 served in the manner provided for written notices to applicants and holders of licenses in
 663 subsection (b) of Code Section ~~48-17-5~~ 50-27-74, and an order imposing a penalty shall
 664 be delivered in the manner provided for delivery of the ~~commissioner's corporation's~~ orders
 665 to applicants for licenses and holders of licenses in Code Section ~~48-17-6~~ 50-27-75.

666 (c) In the case of a suspension or revocation in accordance with this Code section, the
 667 ~~commissioner corporation~~ shall require the business location owner or business location
 668 operator to post a notice in the business location setting out the period of the suspension
 669 or revocation. No applicant or holder of a license or permit shall allow a bona fide coin
 670 operated amusement machine under the control of such applicant or holder of a license or
 671 permit to be placed in a business location owned or operated by a business location owner
 672 or business location operator who has been penalized by a suspension or revocation during
 673 the period of the suspension or revocation.

674 ~~48-17-17. 50-27-86.~~

675 In addition to the state regulatory provisions regarding bona fide coin operated amusement
 676 machines contained in Code Section 16-12-35 and this ~~chapter~~ article, the governing
 677 authority of any county or municipal corporation shall be authorized to enact and enforce
 678 an ordinance which includes any or all of the following provisions:

679 (1) Prohibiting the offering to the public of more than nine Class B ~~bona fide coin~~
 680 ~~operated amusement~~ machines that reward the player exclusively with noncash
 681 merchandise, prizes, toys, gift certificates, or novelties at the same business location;

682 (2) Requiring the owner or operator of a business location which offers to the public any
 683 bona fide coin operated amusement machine that rewards the player exclusively as
 684 described in subsection (d) of Code Section 16-12-35 to inform all employees of the
 685 prohibitions and penalties set out in subsections (e), (f), and (g) of Code Section
 686 16-12-35;

687 (3) Requiring the owner or possessor of any bona fide coin operated amusement machine
 688 that rewards the player exclusively as described in subsection (d) of Code Section
 689 16-12-35 to inform each business location owner or business location operator of the
 690 business location where such machine is located of the prohibitions and penalties set out
 691 in subsections (e), (f), and (g) of Code Section 16-12-35;

692 (4) Providing for the suspension or revocation of a license granted by such local
 693 governing authority to manufacture, distribute, or sell alcoholic beverages or for the
 694 suspension or revocation of any other license granted by such local governing authority
 695 as a penalty for conviction of the business location owner or business location operator
 696 of a violation of subsection (e), (f), or (g) of Code Section 16-12-35, or both. An
 697 ordinance providing for the suspension or revocation of a license shall conform to the due
 698 process guidelines for granting, refusal, suspension, or revocation of a license for the
 699 manufacture, distribution, or sale of alcoholic beverages set out in subsection (b) of Code
 700 Section 3-3-2;

701 (5) Providing for penalties, including fines or suspension or revocation of a license as
 702 provided in paragraph (4) of this subsection, or both, for a violation of any ordinance
 703 enacted pursuant to this subsection; provided, however, that a municipal corporation shall
 704 not be authorized to impose any penalty greater than the maximum penalty authorized by
 705 such municipal corporation's charter;

706 (6) Requiring any business location owner or business location operator subject to
 707 paragraph (1) of subsection (b) of Code Section ~~48-17-15~~ 50-27-84 to provide to the local
 708 governing authority a copy of each verified monthly report prepared in accordance with
 709 such Code section, incorporating the provisions of such Code section in the ordinance,
 710 and providing for any and all of the penalties authorized by subsection (d) of Code
 711 Section ~~48-17-15~~ 50-27-84;

712 (7) Requiring the business location owner or business location operator of any business
 713 location which offers to the public one or more bona fide coin operated amusement
 714 machines to post prominently a notice including the following or substantially similar
 715 language:

716 'GEORGIA LAW PROHIBITS PAYMENT OR RECEIPT OF MONEY FOR
 717 WINNING A GAME OR GAMES ON THIS AMUSEMENT MACHINE; PAYMENT
 718 OR RECEIPT OF MONEY FOR FREE REPLAYS WON ON THIS AMUSEMENT
 719 MACHINE; PAYMENT OR RECEIPT OF MONEY FOR ANY MERCHANDISE,
 720 PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY WON ON THIS AMUSEMENT
 721 MACHINE; OR AWARDING ANY MERCHANDISE, PRIZE, TOY, GIFT
 722 CERTIFICATE, OR NOVELTY OF A VALUE EXCEEDING \$5.00 FOR A SINGLE
 723 PLAY OF THIS MACHINE.';

724 (8) Providing for restrictions relating to distance from specified structures or uses so long
 725 as those distance requirements are no more restrictive than such requirements applicable
 726 to the sale of alcoholic beverages;

727 (9) Requiring as a condition for doing business in the jurisdiction disclosure by the
 728 business location owner or business location operator of the name and address of the
 729 owner of the bona fide coin operated amusement machine or machines;

730 (10) Requiring that all bona fide coin operated amusement machines are placed and kept
 731 in plain view and accessible to any person who is at the business location; and

732 (11) Requiring a business that offers one or more bona fide coin operated amusement
 733 machines to the public for play to post its business license or occupation tax certificate.

734 50-27-87.

735 (a)(1) Except as provided in this Code section, a person shall not own, maintain, place,
 736 or lease a bona fide coin operated amusement machine unless he or she has a valid master

737 license; provided, however, that a manufacturer or distributor may own a bona fide coin
738 operated amusement machine intended for sale to an operator, master licensee,
739 manufacturer, or distributor.

740 (2) A master licensee shall only place or lease bona fide coin operated amusement
741 machines for use in Georgia in a licensed location owner's or location operator's
742 establishments.

743 (3) To be eligible as a master licensee, the person shall not have had a gambling license
744 in any state for at least five years prior to obtaining or renewing a Georgia master's
745 license.

746 (4) On or after July 1, 2013, no person with or applying for a master license shall have
747 an interest in any manufacturer, distributor, location owner, or location operator in this
748 state. Additionally, no group or association whose membership includes manufacturers,
749 distributors, operators, master licensees, location owners, or location operators shall
750 obtain a master license nor shall they form an entity which acts as a master licensee,
751 operator, location owner, or location operator for the purpose of obtaining a master
752 license.

753 (5) Failure to adhere to the provisions of this subsection shall result in a fine of not more
754 than \$50,000.00 and loss of the license for a period of one to five years per incident and
755 subject the master licensee to the loss of any other state or local license held by the
756 master licensee. The corporation shall notify any state or federal agency that issues a
757 license to such master licensee of the breach of its duties under this article.

758 (b)(1) No bona fide coin operated amusement machine, its parts, or software or hardware
759 shall be placed or leased in any location owner's or location operator's establishment
760 except by a master licensee and only if the owner or agent of the location owner or
761 location operator has entered into a written agreement with a master licensee for
762 placement of the bona fide coin operated amusement machine. Beginning on July 1,
763 2013, no person with or applying for a location owner's or location operator's license shall
764 have an interest in any person or immediate family member of a person with a master
765 license, or doing business as a distributor, or manufacturer in this state. A location owner
766 or location operator may sell a bona fide coin operated amusement machine to anyone
767 except another location owner or location operator. Failure to adhere to this subsection
768 shall result in a fine of not less than \$50,000.00 and loss of the location owner's or
769 location operator's license for a period of one to five years per incident and subject the
770 location owner or location operator to the loss of any other state or local licenses held by
771 the location owner or location operator. The corporation shall notify any state or federal
772 agency that issues a license to such location owner or location operator of the breach of
773 its duties under this article.

774 (2) A copy of the written agreement shall be on file in the master licensee's and the
 775 location owner's and location operator's place of business and available for inspection by
 776 individuals authorized by the corporation.

777 (3) Any written agreement entered into after the effective date of this article shall be
 778 exclusive as between one bona fide coin operated amusement machine master licensee
 779 and one location owner or location owner per location.

780 (c) No person shall receive a portion of any proceeds or revenue from the operation of a
 781 bona fide coin operated amusement machine except the operator, location owner, or
 782 location operator, notwithstanding Code Section 50-27-102. No commission or fee shall
 783 be awarded for the facilitation of a contract or agreement between a master licensee and
 784 a location owner or location operator; provided, however, that an employee of a master
 785 licensee may receive compensation, including a commission, for such agreements or
 786 contracts. A master licensee shall not pay a commission or provide anything of value to
 787 any person who is an employee, independent contractor, or immediate family member of
 788 a location owner or location operator.

789 (d) This Code section shall only apply to manufacturers, distributors, operators, master
 790 licensees, and location owners or location operators of Class B machines.

791 50-27-87.1.

792 The following acts or practices are deemed unfair methods of competition and unfair and
 793 deceptive acts under this article:

794 (1) Until the corporation certifies that the Class B accounting terminal authorized by
 795 Code Section 50-27-101 is implemented, a master licensee, location owner, or location
 796 operator retaining more than 50 percent of the net monthly proceeds for the operation of
 797 a Class B machine;

798 (2) A master licensee or owner entering into an agreement with a manufacturer or
 799 distributor:

800 (A) That grants the owner or master licensee exclusive rights to own, maintain, place,
 801 or lease a type, model, or brand of bona fide coin operated amusement machine in this
 802 state; or

803 (B) For the lease of a bona fide coin operated amusement machine, its parts, or
 804 software or hardware;

805 (3) A location owner or location operator asking, demanding, or accepting anything of
 806 value, including but not limited to a loan or financing arrangement, gift, procurement fee,
 807 lease payments, revenue sharing, or payment of license fees or permit fees from a master
 808 licensee, as an incentive, inducement, or any other consideration to locate bona fide coin
 809 operated amusement machines in that establishment. A location owner that violates this

810 subsection shall have all of the location owner's state business licenses revoked for a
 811 period of one to five years per incident. The location owner also shall be fined up to
 812 \$50,000.00 per incident and required to repay any incentive fees or other payments
 813 received from the operator; and

814 (4) An operator, master licensee, or individual providing anything of value, including but
 815 not limited to a loan or financing arrangement, gift, procurement fee, lease payments,
 816 revenue sharing, or payment of license fees or permit fees to a location owner or location
 817 operator, as any incentive, inducement, or any other consideration to locate bona fide coin
 818 operated amusement machines in that establishment. An operator, master licensee, or
 819 individual who violates this subsection shall have all of his or her state business licenses
 820 revoked for a period of one to five years per incident. The individual, owner, or master
 821 licensee also shall be fined up to \$50,000.00 per incident.

822 50-27-88.

823 (a) The corporation shall establish rules or policies, with the advice and consent of the
 824 Bona Fide Coin Operated Amusement Machine Operator Advisory Board, to establish or
 825 create:

826 (1) Forms and information reasonably required for the submission of a license
 827 application; and

828 (2) Procedures to ensure that applicants for a license provide the identical name and
 829 address of the applicant as stated in the application for a license required by local
 830 governing authorities and specify the premises where the licensee shall have its place of
 831 business.

832 (b) Any legal entity, including but not limited to all partnerships, limited liability
 833 companies, and domestic or foreign corporations, lawfully registered and doing business
 834 under the laws of Georgia or the laws of another state and authorized by the Secretary of
 835 State to do business in Georgia which seeks to obtain a license for bona fide coin operated
 836 amusement machines may be permitted to apply for a license in the name of the legal entity
 837 as it is registered in the office of the Secretary of State; provided, however, that:

838 (1) In its application for any bona fide coin operated amusement machine license, the
 839 legal entity shall provide the corporation with the name and address of its agent
 840 authorized to receive service of process under the laws of Georgia, together with a listing
 841 of its current officers and their respective addresses;

842 (2) Any change in the status of licensee's registered agent, including but not limited to
 843 change of address or name, shall be reported to the corporation within ten business days
 844 of such occurrence;

845 (3) In the event that a legal entity shall fail to appoint or maintain a registered agent in
846 Georgia as required by law, or whenever its registered agent cannot with due diligence
847 be found at the registered office of the business as designated in its application for
848 license, the chief executive officer shall be appointed agent to receive any citation for
849 violation of the provisions of this article;

850 (4) Process may be served upon the chief executive officer by leaving with the chief
851 executive officer duplicate copies of such citations;

852 (5) In the event that the notice of citation is served upon the chief executive officer or
853 one of the chief executive officer's designated agents, the chief executive officer shall
854 immediately forward one of the copies to the business at its registered office;

855 (6) Any service made upon the chief executive officer shall be answerable within 30
856 days; and

857 (7) The corporation shall keep a record of all citations served upon the chief executive
858 officer under this article and shall record the time of service and the disposition of that
859 service.

860 50-27-89.

861 (a) There shall be a Bona Fide Coin Operated Amusement Machine Operator Advisory
862 Board to be composed of ten members. The chief executive officer of the corporation shall
863 serve as a member. Two members shall be appointed by the Speaker of the House of
864 Representatives, two members by the Lieutenant Governor, and five members by the
865 Governor; at least one appointee shall be a licensed location owner or location operator.
866 At least seven members shall be Georgia operators with current master licenses
867 representing the broadest possible spectrum of business characteristics of bona fide coin
868 operated amusement machine operators.

869 (b) Members appointed to the advisory board shall serve terms of four years. Upon the
870 expiration of a member's term of office, a new member appointed in the same manner as
871 the member whose term of office expired as provided in subsection (a) of this Code section
872 shall become a member of the advisory board and shall serve for a term of four years and
873 until such member's successor is duly appointed and qualified. If a vacancy occurs in the
874 membership of the advisory board, a new member shall be appointed for the unexpired
875 term of office by the official who appointed the vacating member. Members may be
876 reappointed to additional terms.

877 (c) The advisory board shall establish its own policies and internal operating procedures.
878 Members of the advisory board shall serve without compensation or reimbursement of
879 expenses. The advisory board may report to the corporation in writing at any time. The
880 corporation may invite the advisory board to make an oral presentation to the corporation.

881 (d) The advisory board shall have the exclusive authority to initiate a process to determine
882 a variety of cost-effective, efficacious, and fiscally responsible approaches for
883 consideration by the corporation of a Class B accounting terminal authorized by Code
884 Section 50-27-101. The advisory board shall be further authorized to contract with the
885 Department of Administrative Services to develop a request for proposal to receive bids
886 to provide the Class B accounting terminal and shall submit a minimum of three
887 recommended proposals to the corporation unless only two vendors respond. The
888 corporation shall select one of the recommended proposals to serve as the Class B
889 accounting terminal vendor.

890 (e) No advisory board member, corporation member, or immediate family of either may
891 own a substantial interest in or be an employee, independent contractor, agent, or officer
892 of any vendor recommended to or selected by the corporation. For the purposes of this
893 Code section, 'substantial interest' means the direct or indirect ownership of any privately
894 held assets or stock or over \$5,000.00 in publicly traded stock.

895 Part 2

896 50-27-100.

897 The General Assembly finds that:

898 (1) There is a compelling state interest in ensuring the most efficient, honest, and
899 accurate regulation of the bona fide coin operated amusement machine industry in this
900 state; and

901 (2) The most efficient, accurate, and honest regulation of the bona fide coin operated
902 amusement machine industry in this state can best be facilitated by establishing a Class
903 B accounting terminal to which all Class B machines will be linked by a communications
904 network to provide superior capability of auditing, reporting, and regulation of the coin
905 operated amusement machine industry.

906 50-27-101.

907 (a) In cooperation with the Bona Fide Coin Operated Amusement Machine Operator
908 Advisory Board established under Code Section 50-27-89, the corporation shall procure
909 a Class B accounting terminal linked by a communications network through which all
910 Class B machines in a location shall connect to a single point of commerce for the purpose
911 of accounting and reporting to the state. In no event shall the terminal approved by the
912 corporation limit participation to only one manufacturer or one type of bona fide coin
913 operated amusement machine. Consideration shall be given to the cost associated with
914 retrofitting all existing Class B machines and efforts made to minimize that cost.

915 (b) Six months after the procurement of a Class B accounting terminal and successful pilot
916 testing, all Class B machines shall be linked by a communications network to a Class B
917 accounting terminal for purposes of monitoring and reading device activities as provided
918 for in this Code section. When the corporation is satisfied with the operation of the Class
919 B accounting terminal it shall certify the effective status of the Class B accounting terminal
920 and notify all licensees of such certification.

921 (c) The Class B accounting terminal shall be designed and operated to allow the
922 monitoring and reading of all Class B machines for the purpose of compliance with regard
923 to their obligations to the state. The Class B accounting terminal shall be located within
924 and administered by the corporation.

925 (d) The Class B accounting terminal shall not provide for the monitoring or reading of
926 personal or financial information concerning patrons of bona fide coin operated amusement
927 machines.

928 (e) Any entity that acts as a vendor for the corporation in building, operating, maintaining,
929 or contracting to build, operate, or maintain a Class B accounting terminal shall be
930 prohibited from obtaining a license as an operator or location owner or location operator.
931 As used in this subsection, the term 'entity' shall also include the entity's employees,
932 independent contractors, consultants, or any other person as defined in paragraph (15) of
933 subsection (b) of Code Section 50-27-70 which is related to the entity during the time the
934 vendor is involved with providing service as it relates to the Class B accounting terminal
935 for the corporation.

936 (f) Except as provided in subsection (e) of Code Section 50-27-73, nothing in this part
937 shall be construed to provide any authority to the corporation to limit or eliminate Class B
938 machines or to limit, eliminate, or unduly restrict the number of licenses, permits, or
939 certifications for operators or location owners or location operators.

940 (g) The corporation shall not expand, limit, or otherwise alter what constitutes a bona fide
941 coin operated amusement machine and the permitted redemption related items, except that
942 the corporation shall be permitted to authorize any ticket or product of the corporation.

943 (h) The corporation shall be exempt from and not subject to the requirements of Chapter
944 13 of Title 50, the 'Georgia Administrative Procedure Act.' The corporation shall allow for
945 notice of and comment on any policies or rules enacted pursuant to this article, including
946 approval by the Bona Fide Coin Operated Amusement Machine Operator Advisory Board.

947 50-27-102.

948 (a) Upon successful implementation and certification of the Class B accounting terminal
949 under the provisions of Code Section 50-27-101, and for the first fiscal year thereafter, all

950 owners of Class B machines and location owners and location operators shall apportion net
 951 receipts as follows:

952 (1) The location owner or location operator shall:

953 (A) Retain 47.5 percent of the net receipts; and

954 (B) Provide 52.5 percent of the net receipts to the corporation; and

955 (2) The corporation shall:

956 (A) Retain 5 percent of the net receipts; and

957 (B) Provide, within five business days of receipt, 47.5 percent of the net receipts to the
 958 operator holding the Class B master license for the cost of securing, operating, and
 959 monitoring the machines.

960 (b) In each fiscal year after the implementation and certification required by subsection (a)
 961 of this Code Section, the corporation's share shall increase 1 percent, taken evenly from the
 962 location owner or location operator and the operator, to a maximum of 10 percent.

963 (c) The corporation shall require location owners and location operators to place all bona
 964 fide coin operated amusement machine proceeds due the corporation in a segregated
 965 account in institutions insured by the Federal Deposit Insurance Corporation not later than
 966 the close of the next banking day after the date of their collection by the retailer until the
 967 date they are paid over to the corporation. At the time of such deposit, bona fide coin
 968 operated amusement machine proceeds shall be deemed to be the property of the
 969 corporation. The corporation may require a location owner or location operator to establish
 970 a single separate electronic funds transfer account where available for the purpose of
 971 receiving proceeds from Class B machines, making payments to the corporation, and
 972 receiving payments for the corporation. Unless otherwise authorized in writing by the
 973 corporation, each bona fide coin operated amusement machine location owner or location
 974 operator shall establish a separate bank account for bona fide coin operated amusement
 975 machine proceeds which shall be kept separate and apart from all other funds and assets
 976 and shall not be commingled with any other funds or assets. Whenever any person who
 977 receives proceeds from bona fide coin operated amusement machines becomes insolvent
 978 or dies insolvent, the proceeds due the corporation from such person or his or her estate
 979 shall have preference over all debts or demands. If any financial obligation to the
 980 corporation has not been timely received, the officers, directors, members, partners, or
 981 shareholders of the location owner or location operator shall be personally liable for the
 982 moneys owed to the corporation."

983

SECTION 1-2.

984

Said title is further amended by reserving the Chapter 17 designation.

PART II

SECTION 2-1.

Code Section 16-12-32 of the Official Code of Georgia Annotated, relating to seizure and disposition of property used in gambling, is amended by revising subsection (g) as follows:

"(g) Should it appear that any person filing a defense in the action knew, or by the exercise of ordinary care should have known, that the property was used in violation of this Code section, the same shall be sold by order of the court after such advertisement as the court shall direct, and such person shall have no claim upon the property or the proceeds from the sale thereof. Notwithstanding the provisions of subsection (j) of Code Section 16-14-7, in any forfeiture action involving bona fide coin operated amusement machines brought under Code Section 16-14-7 for an alleged violation of 16-14-4, where an alleged violation of this article is used to prove a pattern of racketeering activity as defined in paragraph (8) of Code Section 16-14-3, any property subject to forfeiture under this article shall not be subject to forfeiture unless the state proves the owner of such property had actual knowledge the property was being used in violation of this article."

SECTION 2-2.

Code Section 16-12-35 of the Official Code of Georgia Annotated, relating to applicability of certain provisions relative to gambling, is amended by revising subsections (a), (h), and (i) and adding new subsections to read as follows:

"(a) As used in this Code section, the term 'some skill' means any presence of the following factors, alone or in combination with one another:

- (1) A learned power of doing a thing competently;
- (2) A particular craft, art, ability, strategy, or tactic;
- (3) A developed or acquired aptitude or ability;
- (4) A coordinated set of actions, including, but not limited to, eye-hand coordination;
- (5) Dexterity, fluency, or coordination in the execution of learned physical or mental tasks or both;
- (6) Technical proficiency or expertise;
- (7) Development or implementation of strategy or tactics in order to achieve a goal; or
- (8) Knowledge of the means or methods of accomplishing a task.

The term some skill refers to a particular craft, coordinated effort, art, ability, strategy, or tactic employed by the player to affect in some way the outcome of the game played on a bona fide coin operated amusement machine as defined in paragraph (2) of Code Section ~~48-17-1~~ 50-27-70. If a player can take no action to affect the outcome of the game, the bona fide coin operated amusement machine does not meet the 'some skill' requirement of this Code section."

1021 "(g.1) Any location owner or location operator or person employed by a location owner
 1022 or location operator who violates subsection (h) or (i) of this Code section for the second
 1023 separate offense shall be guilty of a felony and, upon conviction, shall be punished by
 1024 imprisonment for not less than one nor more than five years, a fine not to exceed
 1025 \$25,000.00, or both, as well as loss of location license and all other state licenses.

1026 (h) Any gift certificates, tokens, vouchers, tickets, or other evidence of winnings awarded
 1027 under subsection (c) or (d) of this Code section must be redeemable only at the premises
 1028 on which the game or device is located. It shall be unlawful for any person to provide to
 1029 any other person as a reward for play on any such game or device any gift certificate,
 1030 token, voucher, ticket, or other evidence of winning which is redeemable or exchangeable
 1031 for any thing of value at any other premises. It shall be unlawful for any person at any
 1032 premises other than those on which the game or device is located to give any thing of value
 1033 to any other person for any gift certificate, token, voucher, ticket, or other evidence of
 1034 winning received by such other person from play on such game or device. Any person who
 1035 violates this subsection shall be guilty of a misdemeanor of a high and aggravated nature.
 1036 This subsection shall not apply to any ticket or product of the Georgia Lottery Corporation.

1037 (i) The merchandise, prizes, toys, gift certificates, novelties, or rewards which may be
 1038 awarded under subsection (c) or (d) of this Code section may not include or be redeemable
 1039 or exchangeable for any firearms, alcohol, or tobacco ~~or any lottery ticket or other item~~
 1040 ~~enabling participation in any lottery.~~ Any person who violates this subsection shall be
 1041 guilty of a misdemeanor of a high and aggravated nature."

1042 "(k) Any person, location owner, or location operator who places, provides, or displays a
 1043 bona fide coin operated amusement machine and offers it to play for consideration in
 1044 Georgia in an establishment for which the location owner or location operator is not
 1045 licensed or in a private residence shall be guilty of a felony and, upon conviction, shall be
 1046 punished by imprisonment for not less than one nor more than five years, a fine not to
 1047 exceed \$25,000.00, or both."

1048 **SECTION 2-3.**

1049 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from
 1050 state sales and use tax, is amended in paragraph (43) by replacing the term "Chapter 17 of
 1051 this title" with "Chapter 27 of Title 50".

1052 **SECTION 2-4.**

1053 Code Section 48-13-9 of the Official Code of Georgia Annotated, relating to limitation on
 1054 authority of local government to impose regulatory fee, examples of businesses or
 1055 practitioners or professions or occupations which may be subject to fees, individuals and

1056 entities not subject to fees, and general laws not repealed, is amended in paragraph (20) of
 1057 subsection (c) by replacing the term "Code Section 48-17-1" with "Code Section 50-27-70"
 1058 and by replacing the term "Code Section 48-17-9" with "Code Section 50-27-78".

1059 **SECTION 2-5.**

1060 Article 1 of Chapter 27 of Title 50 of the Official Code of Georgia Annotated, relating to
 1061 general provisions regarding the lottery for education, is amended by revising paragraph (14)
 1062 of subsection (a) of Code Section 50-27-9, relating to general powers of the lottery
 1063 corporation, as follows:

1064 "(14) To enter into contracts or agreements with state or local law enforcement agencies,
 1065 including the Department of Revenue, for the performance of law enforcement,
 1066 background investigations, ~~and~~ security checks, and auditing and enforcement of license
 1067 requirements required by Article 3 of this chapter;

1068 **PART III**

1069 **SECTION 3-1.**

1070 (a) This Act shall become effective upon its approval by the Governor or upon its becoming
 1071 law without such approval.

1072 (b) If any section of this Act is determined to be unconstitutional by a final decision of an
 1073 appellate court of competent jurisdiction or by the trial court of competent jurisdiction if no
 1074 appeal is made, with the exception of Section 2-2 of this Act, this Act shall stand repealed
 1075 by operation of law.

1076 (c) This Act is not intended to and shall not be construed to affect the legality of the repair,
 1077 transport, possession, or use of otherwise prohibited gambling devices on maritime vessels
 1078 within the jurisdiction of the State of Georgia. To the extent that such repair, transport,
 1079 possession, or use was lawful prior to the enactment of this Act, it shall not be made illegal
 1080 by this Act; and to the extent that such repair, transport, possession, or use was prohibited
 1081 prior to the enactment of this Act, it shall remain prohibited.

1082 **SECTION 3-2.**

1083 All laws and parts of laws in conflict with this Act are repealed.