

The Senate Committee on Regulated Industries and Utilities offers the following substitute to SB 190:

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Article 3 of Chapter 27 of Title 50 of the Official Code of Georgia Annotated,  
2 relating to bona fide coin operated amusement machines, so as to provide for certain  
3 definitions; to provide for license fees and requirements for manufacturers and distributors;  
4 to provide for certain fees upon the transfer of a master license; to provide for an auction of  
5 certain licenses; to provide a procedure for dispute resolution; to provide for related matters;  
6 to repeal conflicting laws; and for other purposes.

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

8                   **SECTION 1.**

9 Article 3 of Chapter 27 of Title 50 of the Official Code of Georgia Annotated, relating to  
10 bona fide coin operated amusement machines, is amended in Code Section 50-27-70, relating  
11 to legislative findings and definitions, by adding a new paragraph to subsection (b) to read  
12 as follows:

13         "(10.1) 'Master licensee' means any person that has lawfully applied for and received a  
14         master license."

15                   **SECTION 2.**

16 Said article is further amended in Code Section 50-27-71, relating to license fees, issuance  
17 of license, display of license, control number, duplicate certificates, application for license  
18 or renewal, and penalty for noncompliance, by revising subsections (a) through (e) and (k)  
19 through (n) as follows:

20         "(a) Every manufacturer, distributor, and owner, except an owner holding a bona fide coin  
21         operated amusement machine solely for personal use or resale, who offers a bona fide coin  
22         operated amusement machine for sale to a distributor or to an owner and who offers others  
23         the opportunity to play for a charge, whether directly or indirectly, any bona fide coin  
24         operated amusement machine shall pay annual master license fees to the corporation as  
25         follows:

26                   (1) For Class A machines:

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

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

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

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

39                   (2) For any number of Class B machines, the owner shall pay a master license fee of  
40                   \$5,000.00;

41                   (3) For any distributor, the distributor shall pay a distributor license fee of \$5,000.00; and

42                   (4) For any manufacturer, the manufacturer shall pay a manufacturer license fee of  
43                   \$5,000.00.

44                   The cost of the license shall be paid to the corporation by company check, cash, cashier's  
45                   check, money order, or any other method approved by the chief executive officer. Upon  
46                   such payment, the corporation shall issue a master license certificate to the owner. The  
47                   master license ~~fee~~ fees levied by this Code section shall be collected by the corporation on  
48                   an annual basis for the period from July 1 to June 30. The board may establish procedures  
49                   for master license collection and set due dates for these license payments. No refund or  
50                   credit of the master license charge levied by this Code section may be allowed to any  
51                   owner who ceases the manufacture, distribution, or operation of bona fide coin operated  
52                   amusement machines prior to the end of any license or permit period.

53                   (a.1) Every location owner or location operator shall pay an annual location license fee for  
54                   each bona fide coin operated amusement machine offered to the public for play. The  
55                   annual location license fee shall be \$25.00 for each Class A machine and \$125.00 for each  
56                   Class B machine. The annual location license fee levied by this Code section shall be  
57                   collected by the corporation on an annual basis from July 1 to June 30. The location  
58                   license fee shall be paid to the corporation by company check, cash, cashier's check, money  
59                   order, or any other method approved by the chief executive officer. Upon payment, the  
60                   corporation shall issue a location license certificate that shall state the number of bona fide  
61                   coin operated amusement machines permitted for each class without further description or  
62                   identification of specific machines. The board may establish procedures for location

license fee collection and set due dates for payment of such fees. No refund or credit of the location license fee shall be allowed to any location owner or location operator who ceases to offer bona fide coin operated amusement machines to the public for commercial use prior the end of any license period.

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

- (1) The licensee or applicant has intentionally violated a provision of this chapter or a regulation promulgated under this chapter;
- (2) The licensee or applicant has intentionally failed to provide requested information or answer a question, intentionally made a false statement in or in connection with his or her application or renewal, or omitted any material or requested information;
- (3) The licensee or applicant used coercion to accomplish a purpose or to engage in conduct regulated by the corporation;
- (4) Failure to revoke or suspend the license would be contrary to the intent and purpose of this article;
- (5) The licensee or applicant has engaged in unfair methods of competition and unfair or deceptive acts or practices as provided in Code Section 50-27-87.1; or
- (6) Any applicant, or any person, firm, corporation, legal entity, or organization having any interest in any operation for which an application has been submitted, fails to meet any obligations imposed by the tax laws or other laws or regulations of this state.

(b) A copy of an owner's master license and the location owner's or location operator's location license shall be prominently displayed at all locations where the owner and location owner or location operator have bona fide coin operated amusement machines available for commercial use and for play by the public to evidence the payment of the fees levied under this Code section. A manufacturer's license and distributor's license shall be available for inspection at their places of business and upon request from the corporation.

(c) Each manufacturer, distributor, and master license and each location license shall list the name and address of the manufacturer, distributor, owner, or location owner, or location operator, as applicable.

(d) The corporation may provide a duplicate ~~original master license certificate or location license certificate issued pursuant to this Code section~~ if the original ~~certificate license~~ has been lost, stolen, or destroyed. The fee for a duplicate original ~~certificate license~~ is \$100.00. If the original ~~certificate license~~ is lost, stolen, or destroyed, a sworn, written statement must be submitted explaining the circumstances by which the ~~certificate license~~ was lost, stolen, or destroyed and including the number of the lost, stolen, or destroyed

certificate license, if applicable, before a duplicate original certificate license can be issued. A certificate license for which a duplicate certificate license has been issued is void.

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

- (1) Is effective for a single business entity;
- (2) Vests no property or right in the holder of the license or permit except to conduct the licensed or permitted business during the period the license or permit is in effect;
- (3) Except as provided in paragraph (5) of this subsection, is nontransferable, nonassignable by and between owners or location owners and location operators, and not subject to execution; and
- (4) Expires upon the death of an individual holder of a license or permit or upon the dissolution of any other holder of a license or permit; and
- (5) As it relates to the holder of a master license, upon the sale of a master license holder's business in its entirety, the buyer shall pay to the corporation a transfer fee for the master license that accompanies the business in the following amounts:
  - (A) For the first sale of a master license holder's business, a transfer fee for the master license in the amount of \$10,000.00;
  - (B) For the second sale of such business, a transfer fee for the master license in the amount of \$25,000.00;
  - (C) For the third sale of such business, a transfer fee for the master license in the amount of \$50,000.00; and
  - (D) For the fourth sale of such business and each sale thereafter, a transfer fee for the master license in an amount to be established by the corporation, which transfer fee shall be not less than \$50,000.00."

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

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

134 (m) Holders of manufacturer, distributor, and location licenses and temporary location  
135 permits shall be subject to the same provisions of this article with regard to refunds, license  
136 renewals, license suspensions, and license revocations as are holders of master licenses.

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

### 141 SECTION 3.

142 Said article is further amended in Code Section 50-27-72, relating to refund of license, by  
143 revising subsection (a) as follows:

144 "(a) No refund is allowed for a manufacturer, distributor, or master license except as  
145 follows:

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

148 (2) The ~~owner licensee~~ makes a written request prior to the issuance of the ~~master~~ license  
149 or registration certificate;

150 (3) The ~~owner licensee~~ makes a written request for a refund claiming the ~~master~~ license  
151 or registration certificate was mistakenly purchased due to reliance on incorrect  
152 information from the corporation;

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

154 (5) The issuance of the ~~master~~ license is denied."

### 155 SECTION 4.

156 Said article is further amended by revising Code Section 50-27-73, relating to refusal to issue  
157 or renew license, revocation or suspension, and limitation on issuance of licenses, as follows:

158 "50-27-73.

159 (a) The corporation shall not renew a ~~master, location owner, or location operator~~ license  
160 for a ~~business person~~ under this article and shall suspend for any period of time or cancel  
161 a ~~master, location owner, or location operator~~ license if the corporation finds that the  
162 applicant or licensee is indebted to the state for any fees, costs, penalties, or delinquent  
163 fees.

164 (b) The corporation shall not issue or renew a license for a ~~business person~~ under this  
165 article if the applicant does not designate and maintain an office in this state or if the  
166 applicant does not permit inspection by the corporation's agents of his or her place of  
167 business or of all records which the applicant or licensee is required to maintain; provided,  
168 however, that this subsection shall not apply to manufacturers.

169       (c) The corporation may refuse to issue or renew a manufacturer, distributor, or master  
170 license or may revoke or suspend a manufacturer, distributor, or master license issued  
171 under this chapter if:

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

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

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

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

184              (A) One thousand dollars for each improper use of a per machine permit sticker; and  
185              (B) Twenty-five thousand dollars for each improper use of a master license certificate.

186       In addition, the corporation is authorized to seize the machines in question and assess the  
187 master license and permit fees as required by law and to assess the costs of such seizure  
188 to the owner or operator of the machines;

189           (5) Failure to suspend or revoke the license would be contrary to the intent and purpose  
190 of this article;

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

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

196       (d) The corporation, on the request of a licensee or applicant for a license, shall conduct  
197 a hearing to ascertain whether a licensee or applicant for a license has engaged in conduct  
198 which would be grounds for revocation, suspension, or refusal to issue or renew a license.

199       (e) Effective July 1, 2015, the ~~The~~ corporation ~~shall not~~ may issue ~~any new up to~~ 220  
200 Class B master licenses ~~until one year after it certifies that the Class B accounting terminal~~  
201 ~~authorized by Code Section 50-27-101 is implemented through a process of competitive~~  
202 ~~auction to be established by the corporation and such competitive auction shall occur at~~  
203 ~~least once every three years effective July 1, 2015; provided, however, that any person or~~  
204 ~~entity holding a Class B master license on the effective date of this subsection shall not be~~  
205 ~~subject to the competitive auction process provided for in this Code section but shall be~~

subject to all other requirements of this article; provided, however, further, that the corporation shall be permitted to renew Class B master licenses at any time."

## SECTION 5.

Said article is further amended in Code Section 50-27-84, relating to limitation on percent of monthly gross retail receipts derived from machines, monthly verified reports, issuance of fine or revocation or suspension of license for violations, and submission of electronic reports, by revising paragraph (3) of subsection (a) and paragraph (2) of subsection (b) as follows:

"(3) 'Gross retail receipts' means the total revenue derived by a business at any one business location from the sale of goods and services and the commission earned at any one business location on the sale of goods and services but shall not include revenue from the sale of goods or services for which the business will receive only a commission, or revenue derived from noncash redemption of winnings from Class B machines, or revenues that are due to a master licensee or the corporation. Revenue from the sale of goods and services at wholesale shall not be included."

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

## SECTION 6.

Said article is further amended in Code Section 50-27-87, relating to master licenses and requirements and restrictions for licensees, by revising subsection (a) as follows:

"(a)(1) Except as provided in this Code section, a person shall not own, maintain, place, or lease a bona fide coin operated amusement machine unless he or she has a valid master license; provided, however, that a manufacturer or distributor may own a bona fide coin operated amusement machine intended for sale to an operator, master licensee, manufacturer, or distributor.

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

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

(4) On or after July 1, 2013, no person with or applying for a master license shall have an interest in any manufacturer, distributor, location owner, or location operator in this

state. No person with or applying for a manufacturer license shall have an interest in a distributor, owner, location owner, or location operator in this state. No person applying for a distributor license shall have an interest in a manufacturer, owner, location owner, or location operator in this state. Additionally, no group or association whose membership includes manufacturers, distributors, operators, master licensees, location owners, or location operators shall obtain a master license nor shall they form an entity which acts as a master licensee, operator, location owner, or location operator for the purpose of obtaining a master license; provided, however, that through June 30, 2015, this paragraph shall not apply to persons who, as of December 31, 2013, have or will have continuously possessed a master license for ten or more years and, for ten or more years, have or will have continuously owned or operated a location where a bona fide coin operated machine has been placed.

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

## SECTION 7.

Said article is further amended in Code Section 50-27-87.1, relating to unfair methods of competition and unfair and deceptive acts, by revising paragraphs (3) and (4) as follows:

"(3) A location owner or location operator asking, demanding, or accepting anything of value, including but not limited to a loan or financing arrangement, gift, procurement fee, lease payments, revenue sharing, or payment of license fees or permit fees from a manufacturer, distributor, or master licensee, as an incentive, inducement, or any other consideration to locate bona fide coin operated amusement machines in that establishment. A location owner that violates this subsection shall have all of the location owner's state business licenses revoked for a period of one to five years per incident. The location owner also shall be fined up to \$50,000.00 per incident and required to repay any incentive fees or other payments received from the operator; and

(4) An A manufacturer, distributor, operator, master licensee, or individual providing anything of value, including but not limited to a loan or financing arrangement, gift, procurement fee, lease payments, revenue sharing, or payment of license fees or permit fees to a location owner or location operator, as any incentive, inducement, or any other consideration to locate bona fide coin operated amusement machines in that establishment. An A manufacturer, distributor, operator, master licensee, or individual who violates this subsection shall have all of his or her state business licenses revoked

277 for a period of one to five years per incident. The individual, manufacturer, distributor,  
278 owner, or master licensee also shall be fined up to \$50,000.00 per incident."

279 **SECTION 8.**

280 Said article is further amended in Code Section 50-27-102, relating to role of the corporation,  
281 implementation and certification, and separation of funds and accounting, by adding a new  
282 subsection to read as follows:

283 "(d)(1) As a condition of the license issued pursuant to this article, no master licensee or  
284 location owner or location operator shall replace or remove a bona fide coin operated  
285 amusement machine from a location until the master licensee and location owner or  
286 location operator certify to the corporation that there are no disputes regarding any  
287 agreement, distribution of funds, or other claim between the master licensee and location  
288 owner or location operator. If neither the master licensee nor location owner or location  
289 operator is unable to make the certification required by this Code section, the corporation  
290 shall refer the dispute to a hearing officer as set forth in this subsection.

291 (2) All disputes subject to the provisions of this Code section shall be decided by a  
292 hearing officer approved or appointed by the corporation. The corporation shall adopt  
293 rules and regulations governing the selection of hearing officers after consultation with  
294 the Bona Fide Coin Operated Amusement Machine Operator Advisory Board. Costs of  
295 the hearing officer's review, including any hearing set pursuant to this Code Section, shall  
296 be shared equally between the parties in the dispute; provided, however, that the  
297 corporation shall not be responsible for any of the costs associated with the dispute  
298 resolution mechanism set forth in this Code section.

299 (3) The corporation shall also adopt rules governing the procedure, evidentiary matters,  
300 and any prehearing discovery applicable to disputes resolved pursuant to this Code  
301 section. Such rules shall be consistent with the Georgia Arbitration Act, and the  
302 corporation shall consult the Bona Fide Coin Operated Amusement Machine Operator  
303 Advisory Board regarding the selection or approval process of hearing officers and any  
304 procedures or rules adopted pursuant to this Code section.

305 (4) If requested by the master licensee or the location owner or location operator, the  
306 hearing officer shall conduct a hearing as to the dispute, but in no case shall the hearing  
307 officer conduct a hearing more than 90 days after he or she has been appointed or selected  
308 to decide the dispute.

309 (5) The decision of the hearing officer may be appealed to the chief executive officer or  
310 his or her designee. The chief executive officer shall not reverse a finding of fact of the  
311 hearing officer if any evidence supports the hearing officer's conclusion. The chief  
312 executive officer shall not reverse a conclusion of law of the hearing officer unless it was

clearly erroneous, arbitrary, and capricious or exceeded the hearing officer's jurisdiction.  
The decision of the chief executive officer may be appealed in the same manner as set  
forth in Code Section 50-27-76."

## SECTION 9.

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