

Senate Bill 190

By: Senators Miller of the 49th, Unterman of the 45th, Orrock of the 36th, Dugan of the 30th, Ligon, Jr. of the 3rd and others

AS PASSED SENATE

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
63 license fee collection and set due dates for payment of such fees. No refund or credit of

64 the location license fee shall be allowed to any location owner or location operator who
 65 ceases to offer bona fide coin operated amusement machines to the public for commercial
 66 use prior the end of any license period.

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

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

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

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

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

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

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

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

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

93 (d) The corporation may provide a duplicate ~~original master license certificate or location~~
 94 ~~license certificate~~ issued pursuant to this Code section if the original ~~certificate~~ license has
 95 been lost, stolen, or destroyed. The fee for a duplicate original ~~certificate~~ license is
 96 \$100.00. If the original ~~certificate~~ license is lost, stolen, or destroyed, a sworn, written
 97 statement must be submitted explaining the circumstances by which the ~~certificate~~ license
 98 was lost, stolen, or destroyed and including the number of the lost, stolen, or destroyed
 99 ~~certificate~~ license, if applicable, before a duplicate original ~~certificate~~ license can be issued.
 100 A ~~certificate~~ license for which a duplicate ~~certificate~~ license has been issued is void.

- 101 (e) A license or permit issued under this Code section:
- 102 (1) Is effective for a single business entity;
- 103 (2) Vests no property or right in the holder of the license or permit except to conduct the
- 104 licensed or permitted business during the period the license or permit is in effect;
- 105 (3) Except as provided in paragraph (5) of this subsection, is ~~is~~ nontransferable,
- 106 nonassignable by and between owners or location owners and location operators, and not
- 107 subject to execution; ~~and~~
- 108 (4) Expires upon the death of an individual holder of a license or permit or upon the
- 109 dissolution of any other holder of a license or permit; ~~and~~
- 110 (5) As it relates to the holder of a master license, upon the sale of a master license
- 111 holder's business in its entirety, the buyer shall pay to the corporation a transfer fee for
- 112 the master license that accompanies the business in the following amounts:
- 113 (A) For the first sale of a master license holder's business, a transfer fee for the master
- 114 license in the amount of \$10,000.00;
- 115 (B) For the second sale of such business, a transfer fee for the master license in the
- 116 amount of \$25,000.00;
- 117 (C) For the third sale of such business, a transfer fee for the master license in the
- 118 amount of \$50,000.00; and
- 119 (D) For the fourth sale of such business and each sale thereafter, a transfer fee for the
- 120 master license in an amount to be established by the corporation, which transfer fee
- 121 shall be not less than \$50,000.00."
- 122 "(k) A renewal application filed on or after July 1, but before the license expires, shall be
- 123 accompanied by a late fee of \$125.00. A manufacturer, distributor, or master license or
- 124 location license that has been expired for more than 90 days may not be renewed. In such
- 125 a case, the manufacturer, distributor, master license, or location license owner shall obtain
- 126 a new ~~master license or the location owner or location operator shall obtain a new location~~
- 127 license, as applicable, by complying with the requirements and procedures for obtaining
- 128 an original ~~master license or location~~ license.
- 129 (l) A holder of a license who properly completes the application and remits all fees with
- 130 it by the due date may continue to manufacture, distribute, or operate bona fide coin
- 131 operated amusement machines after the expiration date if its license or permit renewal has
- 132 not been issued, unless the holder of the license is notified by the corporation prior to the
- 133 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
 206 subject to all other requirements of this article; provided, however, further, that the
 207 corporation shall be permitted to renew Class B master licenses at any time."

208

SECTION 5.

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

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

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

225

SECTION 6.

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

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

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

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

239 (4) On or after July 1, 2013, no person with or applying for a master license shall have
 240 an interest in any manufacturer, distributor, location owner, or location operator in this
 241 state. No person with or applying for a manufacturer license shall have an interest in a
 242 distributor, owner, location owner, or location operator in this state. No person applying
 243 for a distributor license shall have an interest in a manufacturer, owner, location owner,

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

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

258 SECTION 7.

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

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

270 (4) ~~An~~ A manufacturer, distributor, operator, master licensee, or individual providing
 271 anything of value, including but not limited to a loan or financing arrangement, gift,
 272 procurement fee, lease payments, revenue sharing, or payment of license fees or permit
 273 fees to a location owner or location operator, as any incentive, inducement, or any other
 274 consideration to locate bona fide coin operated amusement machines in that
 275 establishment. ~~An~~ A manufacturer, distributor, operator, master licensee, or individual
 276 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
313 clearly erroneous, arbitrary, and capricious or exceeded the hearing officer's jurisdiction.
314 The decision of the chief executive officer may be appealed in the same manner as set
315 forth in Code Section 50-27-76."

316

SECTION 9.

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