

The House Committee on Regulated Industries offers the following substitute to SB 388:

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 revise definitions; to
3 provide for late fees for license renewals; to provide that licenses issued by the Georgia
4 Lottery Corporation shall not be considered in granting or denying any other license or
5 permit; to provide a fee for a duplicate sticker; to prohibit the removal of a sticker without
6 authorization; to provide that noncash redemption earned by a player shall not be deemed
7 revenue from Class B machines for certain purposes; to revise the penalties for improper
8 placement of machines; to prohibit certain actions with regard to bona fide coin operated
9 amusement machines; to provide that certain unfair methods of competition and unfair and
10 deceptive acts shall be unlawful; to provide for the terms of certain agreements; to provide
11 for service in cases of disputes between licensees and location owners or operators; to
12 provide for default judgments in certain circumstances; to provide for delays in hearings for
13 good cause; to provide for related matters; to provide an effective date; to repeal conflicting
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

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

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

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

26 (C) Rewards a successful player with noncash merchandise, prizes, toys, gift
 27 certificates, or novelties in compliance with the provisions of subsection (c) or
 28 paragraph (1) of subsection (d) of Code Section 16-12-35, and does not reward a
 29 successful player with any item prohibited as a reward in subsection (i) of Code
 30 Section 16-12-35 or any reward redeemable as an item prohibited as a reward in
 31 subsection (i) of Code Section 16-12-35;

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

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

37 Notwithstanding the provisions of Code Section 16-12-35 or any other Code section to
 38 the contrary, the permitted noncash redemption award on a per play basis for a Class A
 39 machine shall not exceed the wholesale value of \$20.00."

40 "(5.1) 'Gift certificate' or 'gift card' means an electronic payment device issued for a
 41 specific amount which:

42 (A) May or may not be increased in value or reloaded;

43 (B) Is provided or loaded on a prepaid basis for the future purchase or delivery of any
 44 merchandise or services from single or multiple, unaffiliated merchants or service
 45 providers;

46 (C) Is honored upon presentation but which cannot be exchanged for cash, change, or
 47 currency; and

48 (D) Is available for sale on the premises."

49 SECTION 2.

50 Said article is further amended by revising subsection (k) of Code Section 50-27-71, relating
 51 to license fees, issuance of license, display of license, control number, duplicate certificates,
 52 application for license or renewal, and penalty for noncompliance, and adding a new
 53 subsection to read as follows:

54 "(a.3) Notwithstanding the provisions of Code Section 16-12-35 or any other Code section
 55 to the contrary, a location owner or location operator shall be permitted to allow a player
 56 of a bona fide coin operated amusement machine to redeem winnings for a gift certificate
 57 or gift card, as defined in Code Section 50-27-70, and the awarding of such gift certificate
 58 or gift card shall be a lawful act of in-store redemption."

59 "(k) A renewal application filed on or after the due dates set forth in the rules promulgated
 60 by the board, but before the license expires, shall be accompanied by a nonrefundable late
 61 fee of \$125.00 for Class A licenses and \$1,000.00 for Class B licenses. A manufacturer,

62 distributor, or master license or location license that has been expired for more than 90
 63 days may not be renewed. In such a case, the manufacturer, distributor, master license, or
 64 location license owner shall obtain a new license, as applicable, by complying with the
 65 requirements and procedures for obtaining an original license."

66 **SECTION 3.**

67 Said article is further amended by revising Code Section 50-27-74, relating to right to notice
 68 and hearing, service of notice, and establishment of procedures, by adding a new subsection
 69 to read as follows:

70 "(d) At the time that a master licensee receives notice of a potential revocation of its master
 71 license as provided in this Code section, the master licensee shall be prohibited from
 72 assigning, selling, or otherwise transferring any of its contracts with location owners or
 73 location operators to any other master licensee or other person, and such prohibition shall
 74 remain in effect unless or until a final decision, not subject to further appeal, is rendered
 75 which does not result in the revocation of the master license. After a master license is
 76 revoked by final order and no other appeals are available, any contracts between a master
 77 licensee and a location owner or location operator for the providing of bona fide coin
 78 operated amusement machines shall be null and void. Nothing in this subsection shall
 79 prevent a location owner or location operator from exercising any contractual right to place
 80 machines of another master licensee in such location."

81 **SECTION 4.**

82 Said article is further amended by revising subsection (d) of Code Section 50-27-78, relating
 83 to payment and collection of annual permit fee, permit stickers, and treatment of fees, and
 84 adding a new subsection to read as follows:

85 "(d) The corporation may provide a duplicate permit sticker if a valid permit sticker has
 86 been lost, stolen, or destroyed. The fee for a duplicate permit sticker shall be \$50.00
 87 \$25.00 for each Class A machine and \$125.00 for each Class B machine. If a permit
 88 sticker is lost, stolen, or destroyed, a sworn, written statement must be submitted explaining
 89 the circumstances by which the permit sticker was lost, stolen, or destroyed and including
 90 the number of the lost, stolen, or destroyed permit before a replacement permit can be
 91 issued. A permit for which a duplicate permit sticker has been issued is void."

92 "(h) It shall be unlawful to remove or deface a sticker which is attached to a machine
 93 without authorization by the owner of the machine or the corporation. A violation of this
 94 subsection shall be a misdemeanor."

95

SECTION 5.

96 Said article is further amended by revising paragraph (3) of subsection (a) and paragraph (1)
 97 of subsection (b) of Code Section 50-27-84, relating to limitation on percent of monthly
 98 gross retail receipts derived from machines, monthly verified reports, issuance of fine or
 99 revocation or suspension of license for violations, and submission of electronic reports, as
 100 follows:

101 "(3) 'Gross retail receipts' means the total revenue derived by a business at any one
 102 business location from the sale of goods and services and the commission earned at any
 103 one business location on the sale of goods and services but shall not include revenue from
 104 the sale of goods or services for which the business will receive only a commission. The
 105 sale of goods or services for which the business will receive only a commission shall not
 106 include the sale of any item which the business has purchased for resale. Revenue from
 107 shall not include the sale of goods and services at wholesale ~~shall not be included.~~"

108 "(b)(1) No location owner or location operator shall derive more than 50 percent of such
 109 location owner's or location operator's monthly gross retail receipts for the business
 110 location in which the Class B machine or machines are situated from such Class B
 111 machines; provided, however, that revenues that are due to a master licensee or the
 112 corporation or noncash redemption that is earned by the player shall not be deemed
 113 revenue derived from Class B machines."

114

SECTION 6.

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

117 "(b)(1) No bona fide coin operated amusement machine, its parts, or software or
 118 hardware shall be placed or leased in any location owner's or location operator's
 119 establishment except by a master licensee and only if the owner or agent of the location
 120 owner or location operator has entered into a written agreement with a master licensee
 121 for placement of the bona fide coin operated amusement machine. Beginning on July 1,
 122 2013, no person with or applying for a location owner's or location operator's license shall
 123 have an interest in any person or immediate family member of a person with a master
 124 license, or doing business as a distributor, or manufacturer in this state. A location owner
 125 or location operator may sell a bona fide coin operated amusement machine to anyone
 126 except another location owner or location operator. Failure to adhere to this subsection
 127 shall result in a fine of ~~not less than~~ up to \$50,000.00 and loss of the location owner's or
 128 location operator's license for a period of one to five years per incident and subject the
 129 location owner or location operator to the loss of any other state or local licenses held by
 130 the location owner or location operator. The corporation shall notify any state or federal

131 agency that issues a license to such location owner or location operator of the breach of
132 its duties under this article.

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

136 (3)(A) Any written agreement entered into after April 10, 2013, shall be exclusive as
137 between one bona fide coin operated amusement machine master licensee and one
138 location owner or location operator per location. Any agreement entered into before
139 April 10, 2013, shall not be deemed void for failure to allocate revenue pursuant to
140 Code Section 50-27-87.1 or 50-27-102, and notwithstanding any agreements between
141 master licensees and location owners and location operators, both shall act in a manner
142 that complies with this chapter.

143 (B) Any agreement entered into or renewed after the effective date of this
144 subparagraph shall be for at least one year.

145 (C) Any applicant for a new location license for a location where machines have been
146 placed at any time in the immediately preceding nine months shall either:

147 (i) Not place machines in such location for nine months from the date of the granting
148 of the location license; or

149 (ii) Formally accept an assignment of the written agreement between the master
150 licensee and the immediately preceding location owner or location operator; provided,
151 however, that the master licensee may refuse to assign the written agreement.

152 For the purposes of division (ii) of this subparagraph, the master licensee is the master
153 licensee that, in the nine months preceding the application for a new location license,
154 had the last written agreement with the immediately preceding location owner or
155 location operator or the master licensee that, in the nine months preceding the
156 application for a new location license, had requested or commenced a hearing pursuant
157 to Code Section 50-27-102, whichever had machines placed in the location first."

158 **SECTION 7.**

159 Said article is further amended by revising paragraphs (2) and (4) of subsection (d) of Code
160 Section 50-27-102, relating to role of corporation, implementation and certification,
161 separation of funds and accounting, and disputes, as follows:

162 "(2) The corporation shall have jurisdiction of all disputes between and among any
163 licensees or former licensees whose licenses were issued pursuant to this article relating
164 in any way to any agreement involving coin operated amusement machines, distribution
165 of funds, tortious interference with contract, other claims against a subsequent master
166 license holder or location owner, or any other claim involving coin operated amusement

167 machines; provided, however, that this paragraph shall not apply to any agreement which
168 expired on or before April 10, 2013. Except as provided in paragraph (1) of this
169 subsection, the corporation shall refer any dispute certified by any master licensee against
170 any other master licensee or any location owner or location operator or by any location
171 owner or location operator against any master licensee to a hearing officer. For the
172 purpose of service on licensees with respect to disputes, each licensee or former licensee
173 shall register and keep current with the corporation the name of an agent and his or her
174 address and an email address which shall be made available to any licensee on request.
175 Service by registered mail, courier delivery, or overnight mail delivered to the agent's
176 registered address and to the email address shall be adequate service on the licensee for
177 a hearing on the dispute. All disputes subject to the provisions of this Code section
178 certified by a master licensee, location owner, or location operator shall be decided by a
179 hearing officer approved or appointed by the corporation. The corporation shall adopt
180 rules and regulations governing the selection of hearing officers after consultation with
181 the Bona Fide Coin Operated Amusement Machine Operator Advisory Board. Costs of
182 the hearing officer's review, including any hearing set pursuant to this Code ~~Section~~
183 section, shall be shared equally between the parties in the dispute unless provided
184 otherwise in the agreement or by the hearing officer; provided, however, that the
185 corporation shall not be responsible for any of the costs associated with the dispute
186 resolution mechanism set forth in this Code section. If any party fails to timely pay the
187 costs of the hearing officer's review within ten days of service of notice of costs by the
188 hearing officer, the hearing officer shall grant a default judgment on liability against the
189 nonpaying party. The hearing officer shall then consider evidence related to damages or
190 any other relief and shall render judgment based upon a preponderance of the evidence."
191 "(4) If requested by the master licensee or the location owner or location operator, the
192 hearing officer shall conduct a hearing as to the dispute, but in no case unless extended
193 by the hearing officer for good cause shall the hearing officer conduct a hearing more
194 than 90 days after he or she has been appointed or selected to decide the dispute. No
195 Class B bona fide coin operated amusement machine that is subject to the dispute
196 resolution mechanism required by this Code section shall be removed from the terminal
197 by a master licensee, location owner, or location operator or otherwise prevented by a
198 master licensee, location owner, or location operator from play by the public until a final
199 decision is entered and all appellate rights have been exhausted, or until the master
200 licensee and location owner or location operator agree to a resolution, whichever occurs
201 first."

202 **SECTION 8.**

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

205 **SECTION 9.**

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