

The House Committee on Regulated Industries offers 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:

H. B. 487 (SUB)

- 1 -

~~"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;

- (xii) Basketball machines;
- (xiii) Shuffleboard games;
- (xiv) Kiddie ride games;
- (xv) Skee-ball machines;
- (xvi) Air hockey machines;
- (xvii) Roll down machines;
- (xviii) Trivia machines;
- (xix) Laser games;
- (xx) Simulator games;
- (xxi) Virtual reality machines;
- (xxii) Maze games;
- (xxiii) Racing games;
- (xxiv) Coin operated pool tables or coin operated billiard tables as defined in paragraph (3) of Code Section 43-8-1; and
- (xxv) Any other similar amusement machine which can be legally operated in Georgia; and.

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

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

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

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

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

(A) Provides no reward to a successful player;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) For Class A machines:

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

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

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

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

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

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

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

(a.1) Every ~~business location~~ owner or ~~business location~~ operator shall pay an annual location license fee for each bona fide coin operated amusement machine offered to the public for play. The annual location license fee shall be \$25.00 for each Class A machine and \$125.00 for each Class B machine. The annual location license fee levied by this Code section shall be collected by the ~~commissioner corporation~~ on an annual basis from July 1 to June 30. The location license fee shall be paid to the ~~commissioner corporation~~ by company check, cash, cashier's check, ~~or money order, or any other method approved by the chief executive officer.~~ Upon payment, the ~~commissioner corporation~~ shall issue a location license certificate that shall state the number of bona fide coin operated amusement machines permitted for each class without further description or identification of specific machines. The ~~commissioner 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 ~~business location~~ owner or ~~business 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 ~~business~~ location owner's or ~~business~~ location operator's location license shall be prominently displayed at all locations where the owner and ~~business~~ location owner or ~~business~~ 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.

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

(d) The ~~commissioner~~ corporation may provide a duplicate original master license certificate or location license certificate if the original certificate has been lost, stolen, or destroyed. The fee for a duplicate original certificate is \$100.00. If the original certificate is lost, stolen, or destroyed, a sworn, written statement must be submitted explaining the circumstances by which the certificate was lost, stolen, or destroyed and including the number of the lost, stolen, or destroyed certificate, if applicable, before a duplicate original certificate can be issued. A certificate for which a duplicate certificate 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) Is nontransferable, nonassignable by and between owners or ~~business~~ location owners and ~~business~~ 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.

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

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

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

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

(j) An application is subject to public inspection.

(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 master license or location license that has been expired for more than 90 days may not be renewed. In such a case, the owner shall obtain a new master license or the ~~business location~~ owner or ~~business 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 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 ~~commissioner~~ corporation prior to the expiration date of a problem with the renewal.

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

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

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

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

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

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

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

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

(b) Before a refund will be allowed if the renewal of a master license is denied, the ~~commissioner~~ corporation shall verify that the applicant has no machines in operation and does not possess any machines except those that are exempt from the fees. If a master license is not issued, the ~~commissioner~~ corporation may retain \$100.00 to cover administrative costs.

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

318 ~~48-17-4.~~ 50-27-73.

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

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

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

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

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

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

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

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

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

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

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

(6) 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

(7) 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.

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

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

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

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

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

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

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

(A) Issuance of a citation;

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

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

(b) The written notice provided by this Code section may be served personally by the ~~commissioner~~ chief executive officer or an authorized representative of the corporation or sent by United States certified mail or statutory overnight delivery addressed to the applicant, licensee, or registration certificate holder at its last known address. In the event that notice cannot be effected by either of these methods after due diligence, the ~~commissioner~~ chief executive officer may prescribe any reasonable method of notice calculated to inform a person of average intelligence and prudence of the ~~commissioner's~~ corporation's action, including publishing the notice in a newspaper of general circulation in the area in which the applicant, licensee, or registration certificate holder conducts its

business activities. The written notice shall state with particularity the basis upon which the ~~commissioner~~ corporation is taking the proposed actions.

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

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

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

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

(1) Personal service upon an individual applicant or licensee;

(2) Personal service upon any officer, director, partner, trustee, or receiver, as the case may be;

(3) Personal service upon the person in charge of the business premises, temporarily or otherwise, of the applicant or licensee;

(4) Sending such notice by United States certified mail or statutory overnight delivery addressed to the business premises of the applicant or licensee; or

(5) Posting notice upon the outside door of the business premises of the applicant or licensee.

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

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

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

(b) The court shall not substitute its judgment for that of the ~~commissioner~~ corporation or chief executive officer as to the weight of the evidence on questions of fact committed to the discretion of the ~~commissioner~~ corporation or chief executive officer. The court may affirm the decision of the ~~commissioner~~ corporation or chief executive officer in whole or

in part; the court shall reverse or remand the case for further proceedings if substantial rights of the appellant have been prejudiced because the ~~commissioner's~~ corporation's or chief executive officer's findings, inferences, conclusions, or decisions are:

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

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

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

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

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

(b) The sticker issued by the ~~commissioner~~ corporation to evidence the payment of the fee under this Code section shall be securely attached to the machine. Owners may transfer stickers from one machine to another in the same class and from location to location so

long as all machines in commercial use available for play by the public have a sticker of the correct class and the owner uses the stickers only for machines that it owns.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) If any owner or operator of any bona fide coin operated amusement machine in this state shall violate any provision of this ~~chapter~~ article or any rule and regulation

promulgated under this ~~chapter~~ article, the ~~commissioner~~ corporation may investigate the violation and may seek sanctions, including late fees of \$50.00 for failure to pay timely permit sticker fees, \$125.00 for failure to pay timely the master license fee, suspension or revocation of a license, seizure of equipment, interest penalty, and debarment for repeat offenders.

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

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

(d) A person who knowingly secures or attempts to secure a master license or permit sticker under this ~~chapter~~ article by fraud, misrepresentation, or subterfuge is guilty of a felony.

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

(f) Any bona fide coin operated amusement machine not having the required master license or permit stickers may be seized and confiscated by the ~~commissioner~~ corporation's agents or employees and sold at public auction after 30 days' advertisement. Upon payment of the license required, the ~~commissioner~~ corporation may return any property so seized and confiscated and compromise any tax or penalty assessed. The owner from whom the bona fide coin operated amusement machine is seized may, at any time within ten days after the seizure, repossess the property by filing with the ~~commissioner~~ corporation a bond, in cash or executed by a surety company authorized to do business in this state, in double amount of the tax and penalties due. Within 30 days after the bond has been filed, the owner must bring an action in a court of competent jurisdiction to have the seizure set aside; otherwise, the bond so filed ~~must~~ shall be declared forfeited to the ~~commissioner~~ corporation.

(g) The ~~commissioner~~ chief executive officer or an authorized representative ~~of the commissioner thereof~~ may seal in a manner that will prevent its full operation any such bona fide coin operated amusement machine that is in commercial use available to the public for play whose master license or sticker under this ~~chapter~~ article has been suspended or revoked, upon which the fee has not been paid, or that is not registered with the ~~commissioner~~ corporation under this ~~chapter~~ article. Whoever shall break the seal affixed by the ~~commissioner~~ chief executive officer or an authorized representative ~~of the commissioner thereof~~ without the ~~commissioner's~~ chief executive officer's approval or whoever shall provide in commercial use available to the public for play any such bona fide

coin operated amusement machine after ~~said~~ the seal has been broken without the ~~commissioner's chief executive officer's~~ approval or whoever shall remove any bona fide coin operated amusement machine from its location after the same has been sealed by the ~~commissioner chief executive officer~~ shall be guilty of a misdemeanor. The ~~commissioner corporation~~ shall charge a fee of \$75.00 for the release of any bona fide coin operated amusement machine which is sealed. The fee shall be paid to the ~~commissioner corporation~~.

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

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

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

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

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

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

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

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

(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. Revenue from the sale of goods and services at wholesale shall not be included.

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

(2) Except as authorized by a local ordinance, no ~~business location~~ owner or ~~business location~~ operator shall offer more than nine Class B ~~bona fide coin-operated amusement~~ 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.

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

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

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

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

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

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

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

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

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

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

(f) Beginning on August 20, 2013, and on the twentieth day of each month thereafter, for the previous month, the reports required by subsections (c) and (c.1) of this Code section shall be supplied to the corporation on forms provided by the corporation, including

electronic means. The corporation shall be authorized to audit any records for any such business location or master licensee subject to this Code section. The corporation may contract with any state agencies to perform the audits authorized by this Code section, and it may contract or enter into a memorandum of understanding with the Department of Revenue to enforce the provisions of this Code section.

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

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

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

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

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

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

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

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

670 (1) Prohibiting the offering to the public of more than nine Class B ~~bona fide coin~~
671 ~~operated amusement~~ machines that reward the player exclusively with noncash
672 merchandise, prizes, toys, gift certificates, or novelties at the same business location;
673 (2) Requiring the owner or operator of a business location which offers to the public any
674 bona fide coin operated amusement machine that rewards the player exclusively as
675 described in subsection (d) of Code Section 16-12-35 to inform all employees of the
676 prohibitions and penalties set out in subsections (e), (f), and (g) of Code Section
677 16-12-35;
678 (3) Requiring the owner or possessor of any bona fide coin operated amusement machine
679 that rewards the player exclusively as described in subsection (d) of Code Section
680 16-12-35 to inform each business location owner or business location operator of the
681 business location where such machine is located of the prohibitions and penalties set out
682 in subsections (e), (f), and (g) of Code Section 16-12-35;
683 (4) Providing for the suspension or revocation of a license granted by such local
684 governing authority to manufacture, distribute, or sell alcoholic beverages or for the
685 suspension or revocation of any other license granted by such local governing authority
686 as a penalty for conviction of the business location owner or business location operator
687 of a violation of subsection (e), (f), or (g) of Code Section 16-12-35, or both. An
688 ordinance providing for the suspension or revocation of a license shall conform to the due
689 process guidelines for granting, refusal, suspension, or revocation of a license for the
690 manufacture, distribution, or sale of alcoholic beverages set out in subsection (b) of Code
691 Section 3-3-2;
692 (5) Providing for penalties, including fines or suspension or revocation of a license as
693 provided in paragraph (4) of this subsection, or both, for a violation of any ordinance
694 enacted pursuant to this subsection; provided, however, that a municipal corporation shall
695 not be authorized to impose any penalty greater than the maximum penalty authorized by
696 such municipal corporation's charter;
697 (6) Requiring any business location owner or business location operator subject to
698 paragraph (1) of subsection (b) of Code Section ~~48-17-15~~ 50-27-84 to provide to the local
699 governing authority a copy of each verified monthly report prepared in accordance with
700 such Code section, incorporating the provisions of such Code section in the ordinance,
701 and providing for any and all of the penalties authorized by subsection (d) of Code
702 Section ~~48-17-15~~ 50-27-84;
703 (7) Requiring the business location owner or business location operator of any business
704 location which offers to the public one or more bona fide coin operated amusement
705 machines to post prominently a notice including the following or substantially similar
706 language:

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

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

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

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

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

50-27-87.

(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 operator's license; provided, however, that a manufacturer or distributor may own a bona fide coin operated amusement machine intended for sale to an operator, manufacturer, or distributor.

(2) An operator 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 an operator, the person shall not have had a gambling license in any state for at least five years prior to obtaining or renewing a Georgia operator's license.

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

(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 operator to the loss of any other state or local license held by the operator. The corporation shall notify any state or federal agency that issues a license to such operator of the breach of its duties under this article.

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

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

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

(c) No person shall receive a portion of any proceeds or revenue from the operation of a bona fide coin operated amusement machine except the operator, location owner, or location operator, notwithstanding Code Section 50-27-102. No commission or fee shall be awarded for the facilitation of a contract or agreement between an operator and a location owner or location operator; provided, however, that an employee of an operator may receive compensation, including a commission, for such agreements or contracts.

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

50-27-87.1.

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

(1) Until the corporation certifies that the Class B accounting terminal authorized by Code Section 50-27-101 is implemented, an owner, location owner, or location operator

778 retaining more than 50 percent of the net monthly proceeds for the operation of a Class
779 B machine;

780 (2) An owner entering into an agreement with a manufacturer or distributor:

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

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

785 (3) A location owner or location operator asking, demanding, or accepting anything of
786 value, including but not limited to a loan or financing arrangement, gift, procurement fee,
787 lease payments, revenue sharing, or payment of license fees or permit fees from an
788 operator, as an incentive, inducement, or any other consideration to locate bona fide coin
789 operated amusement machines in that establishment. A location owner that violates this
790 subsection shall have all of the location owner's state business licenses revoked for a
791 period of one to five years per incident. The location owner also shall be fined up to
792 \$50,000.00 per incident and required to repay any incentive fees or other payments
793 received from the operator; and

794 (4) An operator or individual providing anything of value, including but not limited to
795 a loan or financing arrangement, gift, procurement fee, lease payments, revenue sharing,
796 or payment of license fees or permit fees to a location owner or location operator, as any
797 incentive, inducement, or any other consideration to locate bona fide coin operated
798 amusement machines in that establishment. An operator or individual who violates this
799 subsection shall have all of his or her state business licenses revoked for a period of one
800 to five years per incident. The individual or location owner also shall be fined up to
801 \$50,000.00 per incident.

802 50-27-88.

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

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

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

812 (b) Any legal entity, including but not limited to all partnerships, limited liability
813 companies, and domestic or foreign corporations, lawfully registered and doing business

under the laws of Georgia or the laws of another state and authorized by the Secretary of State to do business in Georgia which seeks to obtain a license for bona fide coin operated amusement machines may be permitted to apply for a license in the name of the legal entity as it is registered in the office of the Secretary of State; provided, however, that:

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

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

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

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

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

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

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

50-27-89.

(a) There shall be a Bona Fide Coin Operated Amusement Machine Operator Advisory Board to be composed of ten members. The chief executive officer of the corporation shall serve as a member. Two members shall be appointed by the Speaker of the House of Representatives, two members by the Lieutenant Governor, and five members by the Governor; at least one gubernatorial appointee shall be a representative of the Board of Regents of the University System of Georgia and another gubernatorial appointee shall be a consumer member who is not related to the business of bona fide coin operated amusement machines. At least seven members shall be Georgia operators with current

master licenses representing the broadest possible spectrum of business characteristics of bona fide coin operated amusement machine operators.

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

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

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

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

Part 2

50-27-100.

The General Assembly finds that:

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

(2) The most efficient, accurate, and honest regulation of the bona fide coin operated amusement machine industry in this state can best be facilitated by establishing a Class

885 B accounting terminal to which all Class B machines will be linked by a communications
886 network to provide superior capability of auditing, reporting, and regulation of the coin
887 operated amusement machine industry.

888 50-27-101.

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

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

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

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

910 (e) Any entity that acts as a vendor for the corporation in building, operating, maintaining,
911 or contracting to build, operate, or maintain a Class B accounting terminal shall be
912 prohibited from obtaining a license as an operator or location owner or location operator.

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

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

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

50-27-102.

(a) Upon successful implementation and certification of the Class B accounting terminal under the provisions of Code Section 50-27-101, and for the first fiscal year thereafter, all owners of Class B machines and location owners and location operators shall apportion net receipts as follows:

(1) The location owner or location operator shall:

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

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

(2) The corporation shall:

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

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

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

(c) The corporation shall require location owners and location operators to place all bona fide coin operated amusement machine proceeds due the corporation in a segregated account in institutions insured by the Federal Deposit Insurance Corporation not later than the close of the next banking day after the date of their collection by the retailer until the date they are paid over to the corporation. At the time of such deposit, bona fide coin operated amusement machine proceeds shall be deemed to be the property of the corporation. The corporation may require a location owner or location operator to establish a single separate electronic funds transfer account where available for the purpose of receiving proceeds from Class B machines, making payments to the corporation, and receiving payments for the corporation. Unless otherwise authorized in writing by the corporation, each bona fide coin operated amusement machine location owner or location operator shall establish a separate bank account for bona fide coin operated amusement machine proceeds which shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets. Whenever any person who receives proceeds from bona fide coin operated amusement machines becomes insolvent or dies insolvent, the proceeds due the corporation from such person or his or her estate

956 shall have preference over all debts or demands. If any financial obligation to the
957 corporation has not been timely received, the officers, directors, members, partners, or
958 shareholders of the location owner or location operator shall be personally liable for the
959 moneys owed to the corporation."

960 **SECTION 1-2.**

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

962 **PART II**

963 **SECTION 2-1.**

964 Code Section 16-12-32 of the Official Code of Georgia Annotated, relating to seizure and
965 disposition of property used in gambling, is amended by revising subsection (g) as follows;
966 "(g) Should it appear that any person filing a defense in the action knew, or by the exercise
967 of ordinary care should have known, that the property was used in violation of this Code
968 section, the same shall be sold by order of the court after such advertisement as the court
969 shall direct, and such person shall have no claim upon the property or the proceeds from
970 the sale thereof. Notwithstanding the provisions of subsection (j) of Code Section 16-14-7,
971 in any forfeiture action involving bona fide coin operated amusement machines brought
972 under Code Section 16-14-7 for an alleged violation of 16-14-4, where an alleged violation
973 of this article is used to prove a pattern of racketeering activity as defined in paragraph (8)
974 of Code Section 16-14-3, any property subject to forfeiture under this article shall not be
975 subject to forfeiture unless the state proves the owner of such property had actual
976 knowledge the property was being used in violation of this article."

977 **SECTION 2-2.**

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

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

- 983 (1) A learned power of doing a thing competently;
984 (2) A particular craft, art, ability, strategy, or tactic;
985 (3) A developed or acquired aptitude or ability;
986 (4) A coordinated set of actions, including, but not limited to, eye-hand coordination;
987 (5) Dexterity, fluency, or coordination in the execution of learned physical or mental
988 tasks or both;
989 (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."

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

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

SECTION 2-3.

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

SECTION 2-4.

Code Section 48-13-9 of the Official Code of Georgia Annotated, relating to limitation on authority of local government to impose regulatory fee, examples of businesses or practitioners or professions or occupations which may be subject to fees, individuals and entities not subject to fees, and general laws not repealed, is amended in paragraph (20) of subsection (c) by replacing the term "Code Section 48-17-1" with "Code Section 50-27-70" and by replacing the term "Code Section 48-17-9" with "Code Section 50-27-78".

SECTION 2-5.

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

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

PART III**SECTION 3-1.**

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

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

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

SECTION 3-2.

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