

House Bill 544 (COMMITTEE SUBSTITUTE)

By: Representatives Powell of the 32nd, Collins of the 68th, Oliver of the 82nd, Jasperse of the 11th, Smyre of the 135th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 27 of Title 50 of the Official Code of Georgia Annotated, relating to
2 lottery for education, so as to change the composition of the board of directors of the lottery;
3 to comprehensively revise Article 3, relating to bona fide coin operated amusement
4 machines; to revise and add definitions; to revise the prizes which may be awarded to
5 successful players of bona fide coin operated amusement machines; to clarify what
6 information may be sought in connection with a license application or renewal; to provide
7 additional standards for reviewing license applications and renewals; to limit certain changes
8 in license applications; to provide for additional late fees for license renewals; to provide for
9 certain additional information on license applications; to provide for additional background
10 reviews; to provide for the manner of sales of licenses; to provide for the types of prizes
11 allowed; to provide for license fees; to provide for certain prohibited practices; to provide for
12 the burden of proof in hearings; to provide for supersedeas; to provide for additional hearing
13 officers; to provide for hearings and appeals under the "Georgia Administrative Procedure
14 Act" and through the courts; to provide for attorney's fees and damages under certain
15 circumstances; to provide for an enforcement unit and staffing; to provide for civil forfeitures
16 and procedures for such forfeitures; to provide for the applicability of criteria for licenses;
17 to provide for penalties for certain unfair trade practices; to provide for the calculation of
18 gross retail receipts and for sanctions for violation regarding excess revenues from coin

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operated amusement machines; to provide for the promulgation of certain policies and procedures; to provide for a lottery gift card; to provide for an extension of certain agreements; to provide for the terms of agreements; to provide for dispute resolution regarding agreements and the procedures therefor; to provide for additional duties of the Bona Fide Coin Operated Amusement Machine Operator Advisory Board; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 27 of Title 50 of the Official Code of Georgia Annotated, relating to lottery for education, is amended by revising Code Section 50-27-5, relating to membership of board of directors, appointment, terms, filling of vacancies, conflict of interests, reimbursement for expenses, officers and quorum, as follows:

"50-27-5.

(a) The corporation shall be governed by a board of directors composed of ~~seven~~ eight members to be appointed by the Governor and the chairperson of the Bona Fide Coin Operated Amusement Machine Operator Advisory Board. Members shall be appointed with a view toward equitable geographic representation.

(b) Members shall be residents of the State of Georgia, shall be prominent persons in their businesses or professions, and shall not have been convicted of any felony offense. The Governor should consider appointing to the board an attorney, an accountant, and a person having expertise in marketing. The Governor shall appoint one member who shall have experience in the bona fide coin operated amusement machine industry.

(c) Members shall serve terms of five years, except that of the initial members appointed, three shall be appointed for initial terms of two years, two shall be appointed for initial

terms of four years, and two shall be appointed for initial terms of five years. Any vacancy occurring on the board shall be filled by the Governor by appointment for the unexpired term. The eighth member shall be appointed by the Governor to an initial term of five years.

(d) All members appointed by the Governor shall be confirmed by the Senate. Members appointed when the General Assembly is not in regular session shall serve only until the Senate has confirmed the appointment at the next regular or special session of the General Assembly. If the Senate refuses to confirm an appointment, the member shall vacate his office on the date the confirmation fails.

(e) Members of the board shall not have any direct or indirect interest in an undertaking that puts their personal interest in conflict with that of the corporation, including, but not limited to, an interest in a major procurement contract or a participating retailer.

(f) Upon approval by the chairperson, members of the board shall be reimbursed for actual and reasonable expenses incurred for each day's service spent in the performance of the duties of the corporation.

(g) The members shall elect from their membership a chairperson and vice chairperson. The members shall also elect a secretary and treasurer who can be the chief executive officer of the corporation. Such officers shall serve for such terms as shall be prescribed by the bylaws of the corporation or until their respective successors are elected and qualified. No member of the board shall hold more than any one office of the corporation, except that the same person may serve as secretary and treasurer.

(h) The board of directors may delegate to any one or more of its members, to the chief executive officer, or to any agent or employee of the corporation such powers and duties as it may deem proper.

(i) A majority of members in office shall constitute a quorum for the transaction of any business and for the exercise of any power or function of the corporation.

- (j) Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of a majority of present and voting board members.
- (k) No vacancy in the membership of the board shall impair the right of the members to exercise all the powers and perform all the duties of the board."

SECTION 2.

Said title is further amended by revising subparagraph (b)(2)(A) of Code Section 50-27-70, relating to legislative findings and definitions relating to bona fide coin operated amusement machines, as follows:

"(2)(A) 'Bona fide coin operated amusement machine' means 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.

The term also means a 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. A bona fide coin operated amusement machine shall not be deemed a prohibited device as described in paragraph (2) of Code Section 16-12-20 because it is used in violation of Code Section 16-12-35. Notwithstanding any provision of law to the contrary, the merchandise, prizes, toys, gift certificates, gift card, lottery gift card, novelties, or rewards which may be awarded to a successful player shall include or be redeemable or exchangeable for any goods or services which the person to which such goods or services are to be awarded is entitled or permitted by law to purchase."

SECTION 3.

Said title is further amended in subsection (b) of Code Section 50-27-70, relating to legislative findings and definitions, by revising paragraph (3) and adding new paragraphs to read as follows:

"(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.

Notwithstanding the provisions of Code Section 16-12-35 or any other Code section to the contrary, the permitted noncash redemption award on a per play basis for a Class A machine shall not exceed the wholesale value of \$50.00."

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

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

(B) Is provided or loaded on a prepaid basis for the future purchase or delivery of any merchandise or service permitted by law from single or multiple merchants or service providers, whether affiliated or not;

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

(D) Is available for sale on the premises; and

(E) Is loaded or reloaded or caused to be loaded or reloaded only by the location licensee or its employees at the location licensee's premises.

If the location owner or operator sells gift cards at the location, gift cards may be used for noncash redemption for successful play of the coin operated amusement machines at such location in the same manner as other merchandise for sale at such location. A gift card may be used for noncash redemption for successful play of the coin operated amusement machines at a location."

"(8.1) 'Lottery gift card' means an electronic payment device created by the corporation which is issued for a specific amount which:

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

(B) Is provided or loaded on a prepaid basis for the future purchase or delivery of any merchandise or service permitted by law from single or multiple merchants or service providers, whether affiliated or not;

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

(D) Can be purchased from the corporation only by a location owner who is a lottery retailer for use as prizes for bona fide coin operated amusement machines; and

(E) Is loaded or reloaded or caused to be loaded or reloaded only by the location licensee or its employees at the location licensee's premises.

No value shall be placed on such card that has not been won by the player by the successful play of a game. A lottery gift card may be used for noncash redemption for successful play of the coin operated amusement machines at a location."

SECTION 4.

Said title is further amended in Code Section 50-27-71, relating to license fees, issuance of license, display of license, control number, duplicate certificates, application for license or renewal, and penalty for noncompliance, by revising subsection (a.1), paragraph (2) of subsection (a.2), subsection (c), and subsection (k) and by adding a new subsection to read as follows:

"(a.1) Every location owner or 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 corporation, and the board may establish procedures for location license fee collection and set due dates for payment of such fees. The location license fee shall be paid to the corporation by company check, cash, cashier's check, money order, or any other method approved by the chief executive officer. Upon payment, the 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. No refund or credit of the location license fee shall be allowed to any location owner or location operator who ceases to offer bona fide coin operated amusement machines to the public for commercial use prior the end of any license period. An inspector for the corporation shall visit the location of a new location license holder within the first six months following the issuance of the location license for a compliance review."

"(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. An application shall not be denied on the basis that the applicant is a new business or on the basis of other licenses in the area where the applicant intends to locate;"

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

"(c) Each manufacturer, distributor, and master license and each location license shall list the name and address of the manufacturer, distributor, owner, location owner, or location operator, as applicable. Once an applicant for a location license selects and lists a master license holder on the location license application for a location and submits such application to the corporation for processing and the location license applicant has entered into an agreement with the master license holder to place coin operated amusement machines at such location, such selection of a master license holder shall not be changed for the term of the agreement or unless there has been a breach of such agreement, just cause exists pursuant to subparagraph (b)(3)(E) of Code Section 50-27-87, or unless both the master license holder and the location license applicant agree."

"(k) A renewal application filed on or after the due dates set forth in the rules promulgated by the board, but before the license expires, shall be accompanied by a nonrefundable late fee of \$125.00 for Class A licenses and \$1,000.00 for Class B licenses. A manufacturer, distributor, or master license or location license that has been expired for more than 90 days may not be renewed upon the payment of the appropriate fee along with a nonrefundable \$2,000.00 late fee. In such a case, the manufacturer, distributor, master license, or location license owner shall obtain a new license, as applicable, by complying with the requirements and procedures for obtaining an original license."

226 "(o) Sales of master licenses, location licenses, master license contracts, and coin operated
227 amusement machines by a receiver appointed pursuant to Chapter 8 of Title 9 or the
228 corporation shall be done by public auction and not by private sale."

229 **SECTION 5.**

230 Said title is further amended by revising subsection (d) of Code Section 50-27-73, relating
231 to refusal to issue or renew license, revocation or suspension, hearing, and limitation on
232 issuance of licenses, as follows:

233 "(d) The corporation, on the request of a licensee or applicant for a license, shall conduct
234 a hearing to ascertain whether a licensee or applicant for a license has engaged in conduct
235 which would be grounds for revocation, suspension, or refusal to issue or renew a license.
236 The corporation shall have the burden of proving such conduct by a preponderance of the
237 evidence."

238 **SECTION 6.**

239 Said title is further amended by revising subsection (c) of Code Section 50-27-74, relating
240 to right to notice and hearing, service of notice, establishment of procedures, and prohibition
241 on assigning, transferring, or selling by master licensee, and by adding new subsections to
242 read as follows:

243 "(a.1) During the 30 day written notice period for the denial of a license renewal and the
244 pendency of a hearing on a renewal application, any coin operated amusement machines
245 subject to the denial determination shall continue operation until such time as the appeal
246 period ends with no appeal being filed, or until a final decision is entered and all appellate
247 rights have been exhausted, or until the corporation and licensee agree to a resolution,
248 whichever occurs first. In such case, the master licensee and location licensee shall pay all
249 license and permit fees for all subsequent years of operation."

250 "(c) Subject to approval by the chief executive officer and corporation, the Bona Fide Coin
251 Operated Amusement Machine Operator Advisory Board shall establish a procedure for
252 hearings required by this article, provided that all hearings shall be subject to the provisions
253 of Chapter 13 of this title, the 'Georgia Administrative Procedure Act.' Such ~~procedure~~
254 board shall ~~empower the chief executive officer~~ be empowered with the authority to
255 delegate or appoint any person, ~~arbitrator~~, or public agency to preside over ~~the hearing~~
256 hearings and adjudicate ~~the appeal~~ appeals, and the chief executive officer shall identify
257 the party responsible for entering a final decision for the corporation. Such board shall
258 recommend a list of not less than ten nor more than 14 persons to the Governor from which
259 list the Governor shall appoint not less than five nor more than seven persons to be hearing
260 officers under this article. Such board shall also establish a system of assigning cases to
261 such hearing officers on a rotating basis such that the next matter is assigned to the next
262 hearing officer on the list as the matters arise."

263 "(e) If a hearing is requested by a licensee in accordance with this Code section, such
264 request shall act as a supersedeas of any action and against any action or sanction being
265 taken against a licensee until a hearing is held and a final decision is entered and all appeals
266 from a decision that are adverse to the licensee are final. In hearings under this Code
267 section, the corporation shall have the burden of proof by a preponderance of the evidence.

268 (f) The coin operated amusement machine division of the corporation shall be fully subject
269 to the provisions of Chapter 13 of this title, the 'Georgia Administrative Procedure Act.'

270 (g) If it would facilitate the resolution of any citation or dispute under this Code section,
271 the parties to any such citation or dispute under this Code section may agree to submit the
272 citation or dispute to mediation or binding arbitration."

SECTION 7.

Said title is further amended by revising Code Section 50-27-76, relating to judicial review of action by corporation or chief executive officer, as follows:

"50-27-76.

(a) Appeal by an affected person from all actions of the corporation or chief executive officer shall be ~~to the Superior Court of Fulton County. The review shall be conducted by the court and shall be confined to the record~~ taken as provided in Code Section 50-13-19; provided, however, that the appeal shall be a de novo review of the case limited to the record before the corporation or chief executive officer. Such appeal may be taken directly to the Business Court of the Superior Court of Fulton County if the chief executive officer takes no action on an initial decision of a hearing officer within 30 days of such initial decision.

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

SECTION 8.

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

(b)(1) No location owner or location operator shall derive more than 50 percent of such location owner's or location operator's ~~monthly~~ gross retail receipts for the business location in which the Class B machine or machines are situated from such Class B machines; provided, however, that revenues that are due to a master licensee or the corporation or noncash redemption that is earned by the player shall not be deemed revenue derived from Class B machines. Denial of an application for a license shall not be based upon the corporation's opinion that the licensee will not meet the requirements of this paragraph in the future.

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

(3) The amount of gross retail receipts for the business location shall be measured on a quarterly basis. Gift certificates and gift cards sold at such location shall be valued and constituted as gross income receipts at the time of sale or issuance to the customer.

(4) Any location owner or operator who violates paragraph (1) of this subsection shall be subject to a penalty:

(A) For the first violation at such location in a two-year period, in the amount of the difference between the gross revenues allocated to the location owner or operator from such coin operated amusement machines and the gross revenues from other sources, plus 10 percent of such difference;

(B) For the second violation at such location in a two-year period, in the amount of the difference between the gross revenues allocated to the location owner or operator from

such coin operated amusement machines and the gross revenues from other sources,
plus 50 percent of such difference; and

(C) For the third and subsequent violation at such location in a two-year period, of
suspension or revocation of the location license for such location based upon the totality
of the circumstances."

"(d) In accordance with the provisions of Code Section 50-27-73 and the procedures set
out in Code Sections 50-27-74 and 50-27-75, the 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, provided that no such sanction shall be enforced until
all appeals of such sanction have become final."

"(g) Provided that all funds raised from the operation of coin operated amusement
machines are used for the charitable purposes of the organization and such organization
only operates one location, this Code section shall not apply to entities that are charitable
organizations and have a license issued under Part 2 of Article 2 of Chapter 12 of Title 16
to operate a bingo game or that are charitable organizations that have been in existence for
more than ten years. For the purpose of this Code section, the term 'charitable organization'
means an entity described by:

(1) Section 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C. Section 501(c)(3);

or

(2) Section 170(c) of the federal Internal Revenue Code, 26 U.S.C. Section 170(c)."

SECTION 9.

Said title is further amended by revising subsection (b) of Code Section 50-27-85, relating
to penalties for violations by location owners or operators, as follows:

"(b) Before a penalty is imposed in accordance with this Code section, a location owner
or 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 50-27-74, and an order imposing a penalty shall be delivered in the manner provided for delivery of the corporation's orders to applicants for licenses and holders of licenses in Code Section 50-27-75. In hearings under this Code section, the corporation shall have the burden of proof by a preponderance of the evidence."

SECTION 10.

Said title is further amended by revising paragraph (3) of subsection (b) Code Section 50-27-87, relating to master licenses and requirements and restrictions for licensees, as follows:

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

(B) Any agreement entered into or renewed after May 3, 2016, shall be for at least one year.

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

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

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

379 and provided, further, that, if the applicant for a new location license or the immediately
380 preceding location owner or operator certifies to the corporation that there is no dispute
381 with the master license holder regarding a change in the master license holder, and the
382 master license holder fails to respond or timely pursue arbitration as provided in
383 subsection (d) of Code Section 50-27-102 and the rules promulgated by the corporation,
384 then such applicant shall be free to immediately contract with the master license holder
385 of its choice for placement of machines at the location, provided that such action shall
386 not impair any existing contract rights between the master license holder and the
387 previous location license holder. For the purposes of division (ii) of this subparagraph,
388 the master licensee is either the master licensee that, in the nine months preceding the
389 application for a new location license, had the last written agreement with the
390 immediately preceding location owner or location operator or is the master licensee
391 that, in the nine months preceding the application for a new location license, had
392 requested or commenced a hearing pursuant to Code Section 50-27-102, whichever had
393 machines placed in the location first.

394 (D) On or after July 1, 2021, a licensee or applicant for a license issued pursuant to this
395 article shall, as a condition of such license, accept, adopt, and comply with all of the
396 provisions of this Code section. A location licensee or applicant for a location license
397 shall, as a condition of a license issued pursuant to this article, accept, adopt, and
398 comply with any previously existing contract for the placement of coin operated
399 amusement machines at the location for which such location license is issued, and the
400 issuance of such license shall be deemed to include an assignment of the contract as a
401 matter of law to such location licensee.

402 (E) An agreement between a location owner or operator and a master license owner
403 may be terminated by the location owner or operator under the terms of the agreement
404 or upon just cause based upon, but not limited to, substantial lack of service from the
405 master license holder, materially poor quality coin operated amusement machines, or

nonperforming coin operated amusement machines; provided, however, that actions by a third party or the location owner or operator which would constitute a violation of this article shall not constitute just cause, including the offering or receiving of an inducement prohibited by Code Section 50-27-87.1."

SECTION 11.

Said title is further amended by revising Code Section 50-27-87.1, relating to unfair methods of competition and unfair and deceptive acts, by as follows:

"50-27-87.1.

(a) 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, a master licensee, location owner, or location operator retaining more than 50 percent of the net monthly proceeds for the operation of a Class B machine;

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

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

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

(3) A location owner or location operator, directly or indirectly, asking, demanding, or accepting anything of value, including, but not limited to, a loan or financing arrangement, gift, gift cards, lottery gift cards, procurement fee, lease payments, revenue sharing, or payment of license fees or permit fees from a manufacturer, distributor, or master licensee, as an incentive, inducement, or any other consideration to locate bona

432 bona fide coin operated amusement machines in that establishment. A location owner that
433 violates this ~~subsection~~ paragraph shall have all of the location owner's state business
434 licenses revoked for a period of one to five years per incident. The location owner also
435 shall be fined up to \$50,000.00 per incident and required to repay any incentive fees or
436 other payments received from the operator; ~~and~~

437 (4) A manufacturer, distributor, operator, master licensee, or individual, directly or
438 indirectly, providing anything of value, including but not limited to a loan or financing
439 arrangement, gift, procurement fee, lease payments, revenue sharing, or payment of
440 license fees or permit fees to a location owner or location operator, as an incentive,
441 inducement, or any other consideration to locate bona fide coin operated amusement
442 machines in that establishment. Neither master license holders nor any other persons
443 shall provide funds or anything of value to location owners or location operators for any
444 purpose, including the purchasing of gift cards, gift certificates, or lottery gift cards for
445 prizes for winning players of bona fide coin operated amusement machines or any other
446 reason. A manufacturer, distributor, operator, master licensee, or individual who violates
447 this ~~subsection~~ paragraph shall have all of his or her state business licenses revoked for
448 a period of one to five years per incident. The individual, manufacturer, distributor,
449 owner, or master licensee also shall be fined up to \$50,000.00 per incident; and

450 (5) A master licensee or location owner or operator enrolling a player in any player
451 tracking system or reward system without the express consent and knowledge of a player.
452 A master licensee or operator shall not offer plays or replays on a coin operated
453 amusement machine to a player without the express consent and knowledge of a player;
454 provided, however, that this provision shall not apply to replays won by a player pursuant
455 to Code Section 16-12-35.

456 (b) The providing of physical or digital signage by a master license holder to promote
457 Class B play and explain the noncash redemption law which is placed within the
458 amusement area of a licensed location shall be exempt from the prohibitions set forth in

459 paragraphs (3) and (4) of subsection (a) of this Code section so long as the master license
460 holder does not, directly or indirectly, pay the location licensee any form of consideration
461 for such signage. Such signage shall remain the property of the master license holder and
462 shall be removed not later than when the Class B machines are removed from the location."

463 **SECTION 12.**

464 Said title is further amended by revising subsection (a) of Code Section 50-27-88, relating
465 to establishment of rules and policies and application for license, as follows:

466 "(a) The corporation shall establish rules or policies, with the advice of the Bona Fide Coin
467 Operated Amusement Machine Operator Advisory Board; and in accordance with
468 Chapter 13 of this title, the 'Georgia Administrative Procedure Act,' to establish or create:

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

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

475 **SECTION 13.**

476 Said title is further amended by revising subsection (c) of Code Section 50-27-89, relating
477 to the Bona Fide Coin Operated Amusement Machine Operator Advisory Board,
478 membership, terms, policies and procedures, and selection of vendors, and adding a new
479 subsection to read as follows:

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

The advisory board shall have the authority to adopt rules and regulations and adopt its policies and procedures in accordance with Chapter 13 of this title, the 'Georgia Administrative Procedure Act.'"

"(f) Not later than November 30, 2021, the advisory board shall consider recommendations regarding the creation and implementation of a computerized redemption system to track all player redemptions under this article by category of redemption and sales and use tax liability regarding such redemptions and provide players with an instrument to interact with the bona fide coin operated amusement machine at the location and place credits on or remove them from the bona fide coin operated amusement machines."

SECTION 14.

Said title is further amended by adding a new Code section to read as follows:

"50-27-90.

Not later than July 1, 2022, the corporation shall create and provide a lottery gift card. Such lottery gift card shall be a gift card which may be awarded to successful players of Class A and Class B machines and may be redeemed or exchanged for all items allowed as noncash redemption to successful players of Class A and Class B machines under this article. Such lottery gift cards shall be issued only by licensed location owners or location operators. Lottery retailers shall receive 50 cents from the sale of each lottery gift card, and the corporation shall receive 50 cents."

SECTION 15.

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

"(d)(1) As a condition of the license issued pursuant to this article, no master licensee or location owner or location operator shall replace or remove a Class A or Class B bona

509 fide coin operated amusement machine from a location until the master licensee and
510 location owner or location operator certify to the corporation that there are no disputes
511 regarding any agreement, distribution of funds, or other claim between the master
512 licensee and location owner or location operator; provided, however, that this
513 certification shall not be required if a master licensee is replacing its own Class A or
514 Class B bona fide coin operated amusement machine at a location. If either the master
515 licensee or location owner or location operator is unable to make the certification
516 required by this Code section, the corporation shall refer the dispute to a hearing officer
517 as set forth in this subsection. If a master license holder certifies that there is a dispute
518 with a location owner or location operator which causes the continued generation of
519 revenue from the master license holder's coin operated amusement machines subject to
520 the alleged dispute pending a decision on the dispute and, after the hearing officer's or
521 court's determination, the location owner or location operator is the prevailing party, the
522 hearing officer or judge shall, in addition to any other remedy provided for in this article,
523 order that any revenues received by or due to the master license holder pending the
524 dispute as a result of the master license holder's certification of a dispute shall not be kept
525 by the master license holder but shall be awarded to the corporation. However, if the
526 master license holder is the prevailing party, any revenues received by or due to the
527 location owner or location operator pending the dispute shall not be kept by the location
528 owner or location operator but shall be awarded to the corporation. Applicants for
529 licenses shall have the right to submit disputes against existing or previous master
530 licensees or existing or previous location owners or location operators to a hearing officer
531 under this paragraph or take such disputes directly to the superior courts.

532 (2) The corporation shall have concurrent jurisdiction with the superior and state courts
533 of all disputes between and among any licensees or former licensees whose licenses were
534 issued pursuant to this article relating in any way to any agreement involving coin
535 operated amusement machines, distribution of funds, tortious interference with contract,

other claims against a subsequent master license holder or location owner, or any other claim involving coin operated amusement machines; provided, however, that this paragraph shall not apply to any agreement which expired on or before April 10, 2013. Except as provided in paragraph (1) of this subsection, the corporation shall refer any dispute certified by any master licensee against any other master licensee or any location owner or location operator or by any location owner or location operator against any master licensee to a hearing officer. For the purpose of service on licensees with respect to disputes, each licensee or former licensee shall register and keep current with the corporation the name of an agent and his or her address and an ~~e-mail~~ email address which shall be made available to any licensee on request. Service by registered mail, courier delivery, or overnight mail delivered to the agent's registered address and to the ~~e-mail~~ email address shall be adequate service on the licensee for a hearing on the dispute. All disputes before the corporation subject to the provisions of this Code section certified by a master licensee, location owner, or location operator shall be decided by a hearing officer approved or appointed by the corporation. The corporation shall adopt rules and regulations governing the selection of hearing officers after consultation with the Bona Fide Coin Operated Amusement Machine Operator Advisory Board. Costs of the hearing officer's review, including any hearing set pursuant to this Code section, shall be shared equally between the parties in the dispute unless provided otherwise in the agreement or by the hearing officer; provided, however, that the corporation shall not be responsible for any of the costs associated with the dispute resolution mechanism set forth in this Code section. If any party fails to timely pay the costs of the hearing officer's review within ten days of service of notice of costs by the hearing officer, the hearing officer shall grant a default judgment on liability against the nonpaying party. The hearing officer shall then consider evidence related to damages or any other relief and shall render judgment based upon a preponderance of the evidence. If a party files for review of a dispute and the opposing party does not file an answer within the time allotted

563 for such response or pay its share of the costs of such review, the hearing officer shall
564 conduct a default hearing without additional fees being assessed of the filing party. If it
565 would facilitate the resolution of any dispute under this Code section, the parties to any
566 dispute under this Code section may agree to submit the dispute to mediation or binding
567 arbitration.

568 (3) The corporation shall also adopt rules governing the procedure, evidentiary matters,
569 and any prehearing discovery applicable to disputes resolved pursuant to this Code
570 section. Such rules shall be consistent with the Georgia Arbitration Code, and the
571 corporation shall consult the Bona Fide Coin Operated Amusement Machine Operator
572 Advisory Board regarding the procedures or rules adopted pursuant to this subsection.
573 Notwithstanding Code Section 9-9-9, such procedures and rules shall include at least the
574 right of notice to produce books, writings, and other documents or tangible things;
575 depositions; and interrogatories.

576 (4) If requested by the master licensee or the location owner or location operator, the
577 hearing officer shall conduct a hearing as to the dispute, but in no case unless extended
578 by the hearing officer for good cause shall the hearing officer conduct a hearing more
579 than 90 days after he or she has been appointed or selected to decide the dispute. No
580 Class B bona fide coin operated amusement machine that is subject to the dispute
581 resolution mechanism required by this Code section shall be removed from the terminal
582 by a master licensee, location owner, or location operator or otherwise prevented by a
583 master licensee, location owner, or location operator from play by the public until a final
584 decision is entered and all appellate rights have been exhausted, or until the master
585 licensee and location owner or location operator agree to a resolution, whichever occurs
586 first.

587 (5)(A) This subsection shall apply to all disputes with respect to which there is a
588 decision, award, or ruling by the corporation pursuant to paragraph (2) of this
589 subsection and shall provide the exclusive means by which such disputes may be

590 appealed, modified, or affirmed. The decision, award, or ruling of the hearing officer
591 shall be the decision of the corporation and may be directly appealed, modified, or
592 affirmed by the Business Court of the Superior Court of Fulton County as provided in
593 this paragraph.

594 (B) If a party seeks review of a dispute pursuant to paragraph (2) of this subsection
595 and, upon the conclusion of the review, such party does not prevail in such dispute,
596 such party shall forfeit any claim to the net revenues produced by the coin operated
597 amusement machines involved in the dispute during the pendency of the review. Such
598 party's share of such net proceeds shall be awarded to the corporation.

599 (C) Upon application of a party made within six months of the decision or award of the
600 hearing officer, the Business Court of the Superior Court of Fulton County shall
601 confirm the decision or award unless such decision or award prejudices substantial
602 rights of a party as provided in subsection (h) of Code Section 50-13-19. If the decision
603 or award is found to have prejudiced substantial rights of a party as provided in
604 subsection (h) of Code Section 50-13-19, the court may modify, vacate, or remand the
605 decision or award as appropriate.

606 (D) Upon confirmation, vacation, or modification of the decision or award by the
607 Business Court of the Superior Court of Fulton County, judgment shall be entered
608 accordingly as provided by Chapter 11 of Title 9 and enforced as any other judgment
609 or decree.

610 (E) Any judgment or decree considered as a final judgment under this subsection may
611 be appealed pursuant to Chapter 6 of Title 5. The decision of the hearing officer may
612 be appealed to the chief executive officer or his or her designee. The chief executive
613 officer shall not reverse a finding of fact of the hearing officer if any evidence supports
614 the hearing officer's conclusion. The chief executive officer shall not reverse a
615 conclusion of law of the hearing officer unless it was clearly erroneous, arbitrary, and
616 capricious or exceeded the hearing officer's jurisdiction. The decision of the chief

617 ~~executive officer may be appealed to the Superior Court of Fulton County, which court~~
618 ~~shall not reverse the chief executive officer's findings of fact unless it is against the~~
619 ~~weight of the evidence as set forth in Code Section 5-5-21, and the chief executive~~
620 ~~officer's legal conclusions shall not be set aside unless there is an error of law."~~

621 **SECTION 16.**

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

624 **SECTION 17.**

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