

Senate Bill 483

By: Senators Mullis of the 53rd, Miller of the 49th, Harbison of the 15th, Lucas of the 26th, Burke of the 11th 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 comprehensively revise Article 3, relating to bona fide coin
3 operated amusement machines; to revise and add definitions; to revise the prizes which may
4 be awarded to successful players of bona fide coin operated amusement machines; to clarify
5 what information may be sought in connection with a license application or renewal; to
6 provide additional standards for reviewing license applications and renewals; to limit certain
7 changes in license applications; to provide for additional late fees for license renewals; to
8 provide for certain additional information on license applications; to provide for the manner
9 of sales of licenses; to provide for the types of prizes allowed; to provide for license fees; to
10 provide for certain prohibited practices; to provide for additional hearing officers; to provide
11 for hearings and appeals under the "Georgia Administrative Procedure Act"; to provide for
12 the applicability of criteria for licenses; to provide for penalties for certain unfair trade
13 practices; to provide for the calculation of gross retail receipts and for sanctions for violation
14 regarding excess revenues from coin operated amusement machines; to provide for a lottery
15 gift card; to provide for an extension of certain agreements; to provide for the terms of
16 agreements; to provide for an effective date; to provide for related matters; to repeal
17 conflicting laws; and for other purposes.

S. B. 483

- 1 -

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**

20 Chapter 27 of Title 50 of the Official Code of Georgia Annotated, relating to lottery for
21 education, is amended by revising subparagraph (b)(2)(A) of Code Section 50-27-70, relating
22 to legislative findings and definitions relating to bona fide coin operated amusement
23 machines, as follows:

24 "(2)(A) 'Bona fide coin operated amusement machine' means every machine of any
25 kind or character used by the public to provide amusement or entertainment whose
26 operation requires the payment of or the insertion of a coin, bill, other money, token,
27 ticket, card, or similar object and the result of whose operation depends in whole or in
28 part upon the skill of the player, whether or not it affords an award to a successful
29 player pursuant to subsections (b) through (g) of Code Section 16-12-35, and which can
30 be legally shipped interstate according to federal law. Examples of bona fide coin
31 operated amusement machines include, but are expressly not limited to, the following:

- 32 (i) Pinball machines;
- 33 (ii) Console machines;
- 34 (iii) Video games;
- 35 (iv) Crane machines;
- 36 (v) Claw machines;
- 37 (vi) Pusher machines;
- 38 (vii) Bowling machines;
- 39 (viii) Novelty arcade games;
- 40 (ix) Foosball or table soccer machines;
- 41 (x) Miniature racetrack, football, or golf machines;
- 42 (xi) Target or shooting gallery machines;
- 43 (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."

SECTION 2.

Said chapter is further amended in subsection (b) of Code Section 50-27-70, relating to legislative findings and definitions, by revising paragraph (3) and by adding three 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."

"(4.1)(A) 'Customer relations marketing funds' means anything of value given by a master licensee to an existing customer location licensee with a retail value totaling no more than \$500.00 per such location licensee customer per calendar year.

(B) Such term shall not include, and may be given by a master licensee in addition to, anything of value provided by such master licensee to:

(i) A player in order to promote the play of Class B coin operated amusement machines; or

(ii) A location owner or location operator that is authorized under Code Section 50-27-87.1."

"(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."

"(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."

SECTION 3.

Said chapter 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 subsections (c) and (k) as follows:

"(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, an assignment of such agreement, 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."~~

SECTION 4.

Said chapter is further amended by revising subsection (c) of Code Section 50-27-74, relating to right to notice and hearing, service of notice, establishment of procedures, and prohibition

146 on assigning, transferring, or selling by master licensee, and by adding new subsections to
147 read as follows:

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

155 "(c) Subject to approval by the chief executive officer and corporation, the Bona Fide Coin
156 Operated Amusement Machine Operator Advisory Board shall establish a procedure for
157 hearings required by this article, provided that all hearings shall be subject to the provisions
158 of Chapter 13 of this title, the 'Georgia Administrative Procedure Act.' Such procedure
159 shall empower the chief executive officer with the authority to delegate or appoint any
160 person or public agency to preside over ~~the hearing~~ hearings and adjudicate ~~the appeal~~
161 appeals, and the chief executive officer shall identify the party responsible for entering a
162 final decision for the corporation."

163 "(e) If a hearing is requested by a licensee in accordance with this Code section, such
164 request shall act as a supersedeas of any action and against any action or sanction being
165 taken against a licensee until a hearing is held and a final decision is entered and all appeals
166 from a decision that are adverse to the licensee are final.

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

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

SECTION 5.

Said chapter is further amended by revising subsection (b) of 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, 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, calculated quarterly, 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. This paragraph shall not be applicable to a location owner or location operator that is a fraternal benefit association, as that term is defined in paragraph (15) of subsection (a) of Code Section 48-5-41, that has been in existence for at least three years or a corporation approved nationally recognized veterans organization.

(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) Any location owner or location operator that is not licensed or authorized to sell alcohol under Title 3 or petroleum products under Title 10 shall be required to maintain all records of invoices and payments for the purchases of all goods intended for resale for the prior 12 months and shall make such records available for inspection by the corporation."

SECTION 6.

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

"(D) On or after July 1, 2021, a location licensee or applicant for a location license shall, as a condition of a license issued pursuant to this article, accept, adopt, and comply with the existing contract for the placement of coin operated amusement machines, if a contract currently exists, at the location for which such location license is issued for the term of such contract or ten years, whichever is less, and the issuance of such license shall be deemed to include an assignment of such contract as a matter of law to such location licensee.

(E) An agreement between a location owner or operator and a master license owner may be terminated by the location owner or operator under the terms of the agreement or upon just cause based upon, but not limited to, substantial lack of service from the 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 7.

Said chapter is further amended by revising Code Section 50-27-87.1, relating to unfair methods of competition and unfair and deceptive acts, 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 fide coin operated amusement machines in that establishment. A location owner that violates this ~~subsection~~ paragraph shall have all of the location owner's state business licenses revoked for a period of one to five years per incident. The location owner also shall be fined up to \$50,000.00 per incident and required to repay any incentive fees or other payments received from the operator; ~~and~~

(4) A manufacturer, distributor, operator, master licensee, or individual, directly or indirectly, providing anything of value, including but not limited to a loan or financing arrangement, gift, procurement fee, lease payments, revenue sharing, or payment of license fees or permit fees to a location owner or location operator, as an incentive, inducement, or any other consideration to locate bona fide coin operated amusement machines in that establishment. A manufacturer, distributor, operator, master licensee,

or individual who violates this ~~subsection~~ paragraph shall have all of his or her state business licenses revoked for a period of one to five years per incident. The individual, manufacturer, distributor, owner, or master licensee also shall be fined up to \$50,000.00 per incident; and

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

(b) The prohibitions set forth in paragraph (2) of subsection (a) of this Code section shall not prohibit a master licensee or owner from entering into an agreement with a manufacturer or distributor that grants the master licensee or owner exclusive rights to the digital images displayed on a bona fide coin operated amusement machine provided that such images do not alter the performance or functionality of the bona fide coin operated amusement machine.

(c) The prohibitions set forth in paragraphs (3) and (4) of subsection (a) of this Code section shall not apply to a master licensee providing to a location licensee:

(1) Physical or digital signage to promote Class B play and explain the noncash redemption law that is placed within the area where the Class B coin operated amusement machines are located at the licensed location; provided that the master license holder does not, directly or indirectly, pay the location licensee any form of consideration for such signage which shall remain the property of the master license holder and shall be removed not later than when the Class B machines are removed from such location;

(2) Customer relations marketing funds; and

(3) Improvements that consist of wall coverings, temporary partition walls, paint, flooring, or lighting limited to use or installation within the area where the Class B coin

274 operated amusement machines are located at the licensed location; provided that such
275 improvements are made only once per term of the contract between the parties or one
276 every five years, whichever is greater; and provided, further, that the master licensee shall
277 report to the corporation when such improvements are made, and shall keep all records
278 associated with the improvements available for inspection by the corporation."

279 **SECTION 8.**

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

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

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

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

291 **SECTION 9.**

292 Said chapter is further amended by revising subsection (c) of Code Section 50-27-89, relating
293 to the Bona Fide Coin Operated Amusement Machine Operator Advisory Board,
294 membership, terms, policies and procedures, and selection of vendors, as follows:

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

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

302 **SECTION 10.**

303 Said chapter is further amended by adding two new Code sections to read as follows:

304 "50-27-90.

305 (a) Not later than July 1, 2023, the corporation shall create and provide a lottery gift card.
306 Such lottery gift card shall be a gift card which may be awarded to successful players of
307 Class A and Class B machines and may be redeemed or exchanged for all items allowed
308 as noncash redemption to successful players of Class A and Class B machines under this
309 article. No value shall be placed on a lottery gift card that has not been won by the player
310 by the successful play of a game.

311 (b) Lottery gift cards shall be issued only by licensed location owners or location
312 operators. Lottery retailers shall receive 50 cents from the sale of each lottery gift card,
313 and the corporation shall receive 50 cents to be deducted from the amount loaded onto a
314 card, each time value is added to a card.

315 50-27-91.

316 (a) Notwithstanding the provisions of Code Section 16-12-35 or any other provision of law
317 to the contrary:

318 (1) The merchandise, prizes, toys, gift certificates, gift cards, lottery gift cards, novelties,
319 or rewards that may be awarded to a successful player shall include or be redeemable or
320 exchangeable for any goods or services which the individual to whom such goods or
321 services are to be awarded is entitled or permitted by law to purchase;

322 (2) A master licensee may provide something of value directly to a player to promote the
323 play of Class B machines and such thing of value shall not be considered a redemption
324 for the successful play of Class B machines; and

325 (3) A location owner or location operator shall be permitted to allow a player of a bona
326 fide coin operated amusement machine to redeem winnings for a gift certificate, gift card,
327 or lottery gift card, and the awarding of such gift certificate, gift card, or lottery gift card
328 shall be a lawful act of in-store redemption.

329 (b) If the location owner or location operator sells gift cards at the location, gift cards may
330 be used for noncash redemption for successful play of the coin operated amusement
331 machines at such location."

332 **SECTION 11.**

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

335 **SECTION 12.**

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