

House Bill 849

By: Representatives Beverly of the 143rd and Clark of the 108th

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 16 and 50 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses and state government, respectively, so as to change certain provisions relating to the
3 regulation of bona fide coin operated amusement machines; to change provisions relating to
4 permissible rewards of certain coin operated games and devices; to prohibit certain
5 inducements for placing such games and devices in a location; to provide for penalties; to
6 provide that administrative procedures and actions regarding bona fide coin operated
7 amusement machines shall be subject to Chapter 13 of Title 50; to provide purposes for
8 which the fees and proceeds of bona fide coin operated amusement machines may be used;
9 to provide for definitions; to provide for a limitation on the permitted noncash redemption
10 award for Class A and Class B machines; to provide for redemption for successful play of
11 bona fide coin operated amusement machines by automated kiosks under certain conditions;
12 to provide for the qualifications of location owners and location operators; to authorize
13 certain billiards and darts tournaments and the prizes therefor; to provide for the auction of
14 certain licenses and the timing therefor; to provide for exceptions regarding the amount of
15 funds that may come from the play of bona fide coin operated amusement machines for
16 certain veterans organizations; to provide that certain provisions to location owners or
17 location operators by master licensees shall not constitute an unfair method of competition
18 or an unfair or deceptive act; to provide for the resolution of certain disputes between master

H. B. 849

- 1 -

19 licensees and location owners or location operators; to provide for an effective date; to
20 provide for related matters; to repeal conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
24 amended by revising subsection (g.1) of Code Section 16-12-35, relating to applicability of
25 part and penalty for violation, and adding a new subsection to read as follows:

26 "(g.1) Any person owning or possessing an amusement game or device described in
27 subsection (c) or (d) of this Code section, or any person employed by or acting on behalf
28 of any such person, who offers or accepts a cash or other valuable inducement to place such
29 game or device in a location, other than under those terms stated in Chapter 27 of Title 50,
30 shall be guilty of a misdemeanor of a high and aggravated nature.

31 (g.2) Any location owner or location operator or person employed by a location owner or
32 location operator who violates subsection (h) or (i) of this Code section for the second
33 separate offense shall be guilty of a felony and, upon conviction, shall be punished by
34 imprisonment for not less than one nor more than five years, a fine not to exceed
35 \$25,000.00, or both, as well as loss of location license and all other state licenses."

36 **SECTION 2.**

37 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
38 by revising paragraph (19) of subsection (a) of Code Section 50-27-9, relating to general
39 powers of the Georgia Lottery Corporation, and adding a new subsection to read as follows:

40 "(19) To adopt and amend such regulations, policies, and procedures as necessary to
41 carry out and implement its powers and duties, organize and operate the corporation,
42 regulate the conduct of lottery games in general, and any other matters necessary or

desirable for the efficient and effective operation of the lottery or the convenience of the public. The promulgation of any such regulations, policies, and procedures pursuant to Articles 1 and 2 of this chapter shall be exempt from the requirements of Chapter 13 of this title, the 'Georgia Administrative Procedure Act.' Notwithstanding any other provision of law to the contrary, the promulgation of any form of licensure, rules, regulations, policies, procedures, and administrative hearings regarding violations of Article 3 of this chapter shall be subject to the provisions of Chapter 13 of this title. Hearings under Code Section 50-27-102 shall be held in accordance with the provisions of Part 1 of Article 1 of Chapter 9 of Title 9, the 'Georgia Arbitration Code.'"

"(c)(1) Upon request, the corporation shall provide a response based on the facts presented by a person submitting a letter or other communication to the corporation seeking:

(A) The corporation's interpretation of a statute administered by the corporation or any rule or regulation adopted thereunder;

(B) A recommendation as to possible enforcement action by the corporation;

(C) A recommendation as to whether an exception should be granted where such exemption does not require public notice and an opportunity for hearing; or

(D) Any other response from the corporation that may be appropriate.

(2) Any person submitting such letter or other communication to the corporation may also submit therewith a written request that such communication be accorded confidential treatment for a specified period of time, not exceeding 90 days from the date of the requested response. Such written request shall be accompanied by a statement setting forth the considerations upon which the request for such confidential treatment is based. If the corporation determines that the request for confidential treatment is reasonable and appropriate, it shall be granted and the letter or other communication, along with the request for confidential treatment, shall not be made available for public inspection or copying until the expiration of the specified period. If it appears to the corporation that

the request for confidential treatment should be denied, the corporation shall so advise the person making the request and such person may withdraw the letter or other communication, along with the request for confidential treatment, within 30 days thereafter. In the event of such withdrawal, no response shall be sent or provided by the corporation and the letter or other communication and request for confidential treatment shall remain in the corporation's files but shall not be made public. If such letter or other communication and request for confidential treatment is not withdrawn, such documents shall be made available for public inspection and copying together with any written response of the corporation.

(3) Except as otherwise provided in paragraph (2) of this subsection, the corporation's response shall be posted on the corporation's internet website within 30 days of issuance."

SECTION 3.

Said title is further amended by revising Code Section 50-27-70, relating to legislative findings and definitions, as follows:

"50-27-70.

(a)(1) 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.

(2) It is the intent of the General Assembly that the fees and proceeds derived by the corporation from the operation of bona fide amusement machines shall be equally distributed to each of the following:

(A) Programs and services designed to ensure that students living in less developed census tracts have equal access to higher education opportunities within the state. Such programs and services shall:

(i) Provide information about the availability of tuition grants, scholarships, or loans for higher education within the state;

(ii) Partner with community organizations or educational institutions in less developed census tracts to provide information and support for students who wish to apply for higher education financial assistance;

(iii) Ensure that a certain percentage of tuition grants, scholarships, or loans for higher education provided by the state are awarded to students living in less developed census tracts;

(iv) Include mentorship and support programs that provide academic and well-being support for students living in less developed census tracts; and

(v) Promote diversity and inclusion initiatives in higher education institutions within the state to ensure that students living in less developed census tracts are welcomed and supported in such educational institutions;

(B) Programs and services designed to increase access and participation in pre-kindergarten programs in less developed census tracts. Such programs and services shall:

(i) Provide information regarding the availability of pre-kindergarten programs and how to enroll in such programs;

(ii) Ensure that such pre-kindergarten programs are culturally sensitive and have instruction available in alternative languages for students whose primary language is not English;

(iii) Educate parents and guardians on the benefits of pre-kindergarten programs;

(iv) Provide transportation support for families who may not have access to reliable transportation to and from pre-kindergarten programs;

(v) Conduct targeted recruitment efforts in communities with a high percentage of minority and underrepresented families; and

(vi) Partner with schools and community based organizations in less developed census tracts to promote pre-kindergarten programs and provide support to families during the enrollment process for such pre-kindergarten programs;

(C) Outreach programs designed to promote training programs relating to the use and application of advanced electronic instructional technology and how to access such training programs. Such outreach programs shall:

(i) Be culturally sensitive and include materials that are available in alternative languages;

(ii) Partner with schools and universities that have underrepresented student populations to promote such training programs and provide support to students and teachers during the enrollment process for such training programs;

(iii) Provide financial assistance and resources for such training programs, including scholarships, grants, or stipends; and

(iv) Provide mentorship and support for underrepresented teachers and instructors who are interested in incorporating technology into their teaching practices; and

(D) Investment programs designed to ensure that capital outlay projects for educational facilities target less developed census tracts. Such programs shall:

(i) Engage with communities in less developed census tracts to identify educational facilities that are in need of funding for capital outlay projects;

(ii) Prioritize the funding of capital outlay projects for schools that serve students living in less developed census tracts;

(iii) Partner with educators and educational leaders to develop strategies for the effective use of capital outlay funding and ensure that less developed census tracts are adequately represented in the decision-making process for funding grants for such capital outlay projects;

(iv) Ensure that capital outlay projects take into account the unique cultural and historical significance of educational facilities in less developed census tracts; and

(v) Ensure that less developed census tracts have access to information about the availability of funding for capital outlay projects and provide application support and assistance for those seeking funding for such capital outlay projects.

(b) As used in this article, the term:

(.1) 'Affiliate' means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person.

(1) 'Applicant' or 'licensee' means an owner, including an owner's officers, affiliates, key persons, 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 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;

- 176 (iv) Crane machines;
177 (v) Claw machines;
178 (vi) Pusher machines;
179 (vii) Bowling machines;
180 (viii) Novelty arcade games;
181 (ix) Foosball or table soccer machines;
182 (x) Miniature racetrack, football, or golf machines;
183 (xi) Target or shooting gallery machines;
184 (xii) Basketball machines;
185 (xiii) Shuffleboard games;
186 (xiv) Kiddie ride games;
187 (xv) Skee-ball machines;
188 (xvi) Air hockey machines;
189 (xvii) Roll down machines;
190 (xviii) Trivia machines;
191 (xix) Laser games;
192 (xx) Simulator games;
193 (xxi) Virtual reality machines;
194 (xxii) Maze games;
195 (xxiii) Racing games;
196 (xxiv) Coin operated pool tables or coin operated billiard tables as defined in
197 paragraph (3) of Code Section 43-8-1; and
198 (xxv) Any other similar amusement machine which can be legally operated in
199 Georgia.
- 200 The term also means a machine of any kind or character used by the public to provide
201 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.

(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 per play for a Class A machine shall not exceed a wholesale value of \$50.00."

(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.

(4.1) 'Contract' means a standardized agreement provided and required by the corporation between a master licensee and the location owner or location operator.

(5) '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.

(5.1) 'Gift card' or 'gift certificate' means an electronic payment device or system issued by the corporation for a specific amount of noncash redemption earned by a successful player of a bona fide coin operated amusement machine which:

(A) Is reloadable;

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

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

(D) May be used off the premises of the location licensee, but is loaded or reloaded or caused to be loaded or reloaded only:

(i) On the location licensee's premises; or

(ii) By the location licensee or its employees on the location licensee's premises.

(5.2) 'Interested party' means an affiliate, related person, relative, key person, or person with an attributed interest.

(5.3) 'Key person' means a person that is able to control, or exercise influence over, the management, assets, or operating policies of an owner or licensee or is the person that is ultimately entitled to receive the economic benefits of the licensee.

(6) 'Location license' means the initial and annually renewed license which every location owner or 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.

(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 and any interested party of such 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.

(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~~ this state.

(10.1) 'Master licensee' means any person and any interested party of such person that has lawfully applied for and received a master license.

(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 bona fide malfunctions of the amusement machine.

(11.1) 'Nonoperating economic party' means a person that receives, or is entitled to receive, from or on behalf of a location operator, lease payments in respect to the real estate from which the location is operated, other than:

(A) The direct or indirect ultimate beneficial owner of such real estate; or

(B) A bona fide real estate management company whose operations do not consist of 50 percent or more of managing such real estate with location operators on behalf of a person that is the direct or indirect ultimate beneficial owner of such real estate.

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

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

(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~~ this 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, related persons, key person, person with an attributed interest, or employee of any corporate entity or form authorized by law.

(15.1) 'Person with an attributed interest' means a person with a direct or indirect interest in a licensee or applicant through the holdings of the person's relatives or through a third party or parties on behalf of the person pursuant to a plan, arrangement, or agreement.

(15.2) 'Related person' means:

(A) A person having a pecuniary interest in a business entity which is not a publicly held company;

(B) A holder of more than 5 percent of the outstanding shares of a publicly held company;

(C) A key person of a business entity;

(D) An affiliate of a business entity;

(E) A relative of an individual having a pecuniary interest in a business entity which is not a publicly held company;

(F) A relative of a holder of more than 5 percent of the outstanding shares of a corporation which is a publicly held company;

(G) A relative of a key person of a business entity;

(H) A relative of an affiliate of a business entity;

(I) A trust for the benefit of or managed by a business entity or a key person thereof; or

(J) Any other person that is able to control or significantly influence the management or operating policies of a business entity.

(15.3) 'Relative' means a spouse, parent, grandparent, child, stepchild, sibling, uncle, aunt, nephew, niece, first cousin, father-in-law, mother-in-law, son-in-law,

daughter-in-law, brother-in-law, sister-in-law, or dependents, whether by blood, marriage, adoption, or natural relationship.

(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 (d)(1)(A) through (d)(1)(D) of Code Section 16-12-35 after each play.

(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.

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

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

(20) 'Temporary location permit' means the permit which every location owner or 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."

SECTION 4.

Said title is further amended by revising subsections (a.1), (e), and (i) of Code Section 50-27-71, relating to license fees, issuance of license, display of license, control number,

359 duplicate certificates, application for license or renewal, and penalty for noncompliance, and
360 adding new subsections to read as follows:

361 "(a.1)(1)(A) Every location owner or location operator shall pay an annual location
362 license fee for each bona fide coin operated amusement machine offered to the public
363 for play. To be eligible to apply for and to maintain a location owner or location
364 operator license, the applicant for such license shall have been in operation a minimum
365 of 12 months and provide documentary proof satisfactory to the corporation of the
366 following:

367 (i) That the applicant owns or leases the location for which the license is sought;

368 (ii) The identity of the landlord and, if the owner is not the landlord, the identity of
369 the owner of the property;

370 (iii) The lease terms, if applicable, for the location;

371 (iv) Any payments to be made to the landlord and owner, or both, by the store
372 operator over and above regular lease payments at any time, whether before, during,
373 or after the term of the lease, related to the installation of a bona fide coin operated
374 amusement machine;

375 (v) The source of any funding utilized in the initial start-up or acquisition of the
376 location and the financial viability of the location at the time of the application;

377 (vi) The ownership, including the identification of all interested parties, of the
378 location;

379 (vii) The signed and notarized valid contract with a master licensee, which shall be
380 maintained by the corporation should any contractual disputes arise; and

381 (viii) Of the requisite knowledge and ability to properly administer the machines and
382 operate within the corporation's rules and regulations; and

383 (ix) A sworn declaration that no inducement has been sought, paid, or received by
384 anyone to induce the contract, including the location operator or location owner, the
385 master licensee, or any third party, and that the master licensee has no financial

interest in or benefit from the location's operation or ownership in the underlying property, nor does any interested party to the master licensee have an interest in or derive a financial benefit from the location's operation or property ownership.

(B) Any omissions or false information provided by the applicant for a location owner or location operator license shall result in the denial or forfeiture of such license and financial and potential penalties as determined by the corporation and established in rules and regulations.

(2) Every license issued or renewed to a location operator shall include all nonoperating economic parties.

(3) No license shall be issued to a location owner or location operator if said location is within 500 yards of an existing location owner or location operator or a location which had a license within the previous 12 months. License applicants may apply for a license within 500 yards of an existing location through a public hearing with the corporation in which the existing location licensee shall be permitted to participate.

(4) 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."

"(a.3)(1)(A) A location owner or location operator may offer gift cards for noncash redemption for successful play of a Class A or Class B machine at such location in the same manner as other merchandise for sale at such location. The acceptance of a gift card offered by the location owner or location operator shall constitute the act of in-store redemption by a successful player. No value shall be placed on such gift card unless such value has been won by the player for the successful play of a game on such bona fide coin operated amusement machine.

(B) A location owner or location operator shall offer gift cards or other corporation lottery products as the only forms of noncash redemption for successful play of a Class B machine at such location. The acceptance of a gift card offered by the location owner or location operator shall constitute the act of in-store redemption by a successful player. No value shall be placed on such gift card unless such value has been won by the player for the successful play of a game on such bona fide coin operated amusement machine.

(2) Notwithstanding any provision of law to the contrary, the gift cards that may be awarded to a successful player shall include or be redeemable or exchangeable for any goods or services which such player is entitled or permitted by law to purchase.

(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 card or gift certificate, and the award of such gift card or gift certificate shall be a lawful act of in-store redemption and shall be permitted to be fully redeemed off the premises.

(4) Subject to the requirements of this subsection, successful players may redeem their winnings on a gift card or gift certificate from a self-service gift card or gift certificate redemption device. The device and the cost of such device may be provided by the location owner or location operator, the master licensee, or both."

"(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) Except as provided in paragraph (5) of this subsection, is nontransferable, nonassignable by and between owners or location owners and location operators, and not subject to execution;
- (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, or following a revocation of a license or a permit; and
- (5) As it relates to a master licensee, upon the sale of a master licensee's business in its entirety, the buyer shall pay to the corporation a transfer fee for the master license that accompanies the business in the following amounts:
- (A) For the first sale of a master licensee's business, a transfer fee for the master license in the amount of \$10,000.00;
- (B) For the second sale of such business, a transfer fee for the master license in the amount of \$25,000.00;
- (C) For the third sale of such business, a transfer fee for the master license in the amount of \$50,000.00; and
- (D) For the fourth sale of such business and each sale thereafter, a transfer fee for the master license in an amount to be established by the corporation, which transfer fee shall be not less than \$50,000.00."
- "(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 and shall also include a copy of the federal W-2 or federal Internal Revenue Service Form 1099 for each employee or independent contractor who received gross compensation of \$400,000.00 or more during the most recent calendar year. 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."

"(o)(1) As used in this subsection, the term:

(A) 'Billiards' shall have the same meaning as provided in paragraph (3) of Code Section 43-8-1.

(B) 'Darts' means any one of the games played with two or more players who, using their bare hands, throw small sharp-pointed missiles known as darts at a target known as a dartboard to accumulate points.

(2) A master licensee, a location owner, a location operator, or a combination of such licensees shall be authorized to conduct billiards or darts tournaments on the premises for which such licensees have a contract for the installation of bona fide coin operated amusement machines. Such tournaments may be conducted on bona fide coin operated amusement machines or noncoin operated devices. The licensee or licensees may award prizes to the winners of such tournaments, but such prizes shall be limited to gift cards or other forms of noncash redemption. If such tournaments are jointly sponsored, such licensees shall share equally in the cost of such prizes.

(p) At any time following a proposed revocation or a proposed nonrenewal of a master license by the corporation, any settlement of such proposed revocation or proposed nonrenewal involving the sale of the master license and associated assets, including, but not limited to, location licenses, master license contracts, and bona fide coin operated amusement machines, shall require a public auction."

SECTION 5.

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

490 "(c) The corporation may refuse to issue or renew a manufacturer, distributor, or master
491 license or may revoke or suspend a manufacturer, distributor, or master license issued
492 under this chapter if:

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

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

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

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

505 (A) One thousand dollars for each improper use of a per machine permit sticker; and

506 (B) Twenty-five thousand dollars for each improper use of a master license certificate.

507 In addition, the corporation is authorized to seize the machines in question and assess the
508 master license and permit fees as required by law and to assess the costs of such seizure
509 to the owner or operator of the machines;

510 (5) Failure to suspend or revoke the license would be contrary to the intent and purpose
511 of this article;

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

514 (7) Any applicant, or any person, firm, corporation, legal entity, or organization having
515 any interest in any operation for which an application has been submitted, fails to meet
516 any obligations imposed by the tax laws or other laws or regulations of this state;

517 (8) The licensee or applicant for a master license or an interested party of such licensee
518 or applicant has a financial interest in a licensed location owner or location operator; or

519 (9) The licensee or applicant for a location owner or location operator license or an
520 interested party of such licensee or applicant has a financial interest in a master licensee."

521 "(e) Effective July 1, ~~2015~~ 2023, the corporation may issue up to 220 Class B master
522 licenses, less any revoked licenses, through a process of competitive auction to be
523 established by the corporation and ~~such a~~ competitive auction for one license shall occur
524 ~~at least~~ once every three years effective July 1, ~~2015~~ 2023; provided, however, that any
525 person or entity holding a Class B master license on the effective date of this subsection
526 shall not be subject to the competitive auction process provided for in this Code section but
527 shall be subject to all other requirements of this article; provided, further, that the
528 corporation shall be permitted to renew Class B master licenses at any time."

529 **SECTION 6.**

530 Said title is further amended by revising Code Section 50-27-84, relating to limitation on
531 percent of monthly gross retail receipts derived from machines, monthly verified reports,
532 issuance of fine or revocation or suspension of license for violations, and submission of
533 electronic reports, as follows:

534 "50-27-84.

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

536 (1) 'Amusement or recreational establishment' means an open-air establishment
537 frequented by the public for amusement or recreation. Such an establishment shall be in
538 a licensed fixed location located in this state and which has been in operation for at least
539 35 years.

540 (2) 'Business location' means any structure, vehicle, or establishment where a business
541 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. The sale of goods or services for which the business will receive only a commission shall not include the sale of any item which the business has purchased for resale. Revenue shall not include the sale of goods and services at wholesale.

(b)(1)(A) No location owner or location operator shall derive more than 50 percent of such location owner's or location operator's ~~monthly~~ quarterly 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. This paragraph shall not apply to veterans organizations which are exempt from taxes and are described in Code Section 48-5-41 or Code Section 48-5-478.4.

(B) If on a first offense a location owner or location operator is found by the corporation to be deriving more than 50 percent of such location owner's or location operator's gross retail receipts for the business location in which the Class B machine or machines are situated from such Class B machine or machines, such location owner or location operator shall be placed on probation by the corporation for 60 days before any action is taken to terminate such license. A license shall not be terminated if, during the probationary period for such first offense, the location owner or location operator is found by the corporation to be deriving less than 50 percent of such location owner's or location operator's gross retail receipts for the business location in which the Class B machine or machines are situated from such Class B machine or machines.

(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.

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

(1) The gross receipts from the Class B machines;

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

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

(c.1) Each person holding a Class B master license shall prepare a ~~monthly~~ quarterly 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 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.

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

(f) Beginning on ~~August 20, 2013~~ July 20, 2023, and on the twentieth day of ~~each month~~ January, April, July, and October of each year thereafter, for the previous ~~month~~ quarter, 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

594 master licensee subject to this Code section. The corporation may contract with any state
595 agencies to perform the audits authorized by this Code section, and it may contract or enter
596 into a memorandum of understanding with the Department of Revenue to enforce the
597 provisions of this Code section."

598 SECTION 7.

599 Said title is further amended by revising Code Section 50-27-87, relating to master licenses
600 and requirements and restrictions for licensees, as follows:

601 "50-27-87.

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

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

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

613 (4) On or after July 1, ~~2013~~ 2023, no person with or applying for a master license shall
614 have an interest in any manufacturer, distributor, location owner, ~~or~~ location operator, or
615 another master licensee in this state. No person with or applying for a manufacturer
616 license shall have an interest in a distributor, master licensee, location owner, or location
617 operator in this state. No person applying for a distributor license shall have an interest
618 in a manufacturer, master licensee, location owner, or location operator in this state.
619 Additionally, no group or association whose membership includes manufacturers,

distributors, operators, master licensees, location owners, or location operators shall obtain a master license nor shall they form an entity which acts as a master licensee, operator, location owner, or location operator for the purpose of obtaining a master license; provided, however, that through June 30, 2015, this paragraph shall not apply to persons who, as of December 31, 2013, have or will have continuously possessed a master license for ten or more years and, for ten or more years, have or will have continuously owned or operated a location where a bona fide coin operated machine has been placed. Nothing in this paragraph shall prohibit a manufacturer, distributor, or master licensee from entering into a financing arrangement with the other for the sale of machines, including but not limited to a lien, guaranty, or line of credit.

(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 master licensee to the loss of any other state or local license held by the master licensee. The corporation shall notify any state or federal agency that issues a license to such master licensee 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 master licensee and only if the owner or agent of the location owner or location operator has entered into a written agreement with a master licensee 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 with a master license, 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 up to \$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 master licensee's and the location owner's and location operator's place of business and available for inspection by individuals authorized by the corporation.

(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~~ July 1, 2023, shall be for at least ~~one year~~ three years between a master licensee and a location owner or location operator.

(C) Any agreement between the master licensee and the location owner or location operator to place bona fide coin operated amusement machines shall not be changed for the term of the agreement, unless there has been an assignment of such agreement, a breach of such agreement, or just cause exists pursuant to subparagraph (E) of this paragraph, or unless both the master licensee and the location license applicant agree.

~~(C)(D)~~ Any applicant for a new location license for a location where machines have been placed at any time in the immediately preceding ~~nine~~ 36 months shall either:

(i) ~~Not place machines in such location for nine months from the date of the granting of the location license~~ Execute a written agreement for the placement and operation

of bona fide coin operated amusement machines with a master licensee of its choosing; or

(ii) ~~Formally accept~~ Accept formally or continue to perform under the written agreement in a manner which demonstrates an acceptance of or an assignment of the written agreement between the master licensee and the immediately preceding location owner or location operator of such location; provided, however, that the master licensee may refuse to assign the written agreement.

In the event the applicant elects to execute a written agreement with a master licensee of its choosing pursuant to division (i) of this subparagraph, the chosen master licensee shall, as a condition of installing bona fide coin operated amusement machines under the agreement, and within 15 days of the approval of the applicant's license, pay a change fee equal to either two times the average bona fide coin operated amusement machine annual net revenue as shall be determined on a quarterly basis by the corporation or the highest income for such new location during any 12 month period under the prior license, whichever is higher. For the purposes of division (ii) of this subparagraph, the master licensee is the master licensee that, in the ~~nine~~ 36 months preceding the application for a new location license, had the last written agreement with the immediately preceding location owner or location operator or the master licensee that, in the ~~nine~~ 36 months preceding the application for a new location license, had requested or commenced a hearing pursuant to Code Section 50-27-102, whichever had machines placed in the location first.

(E) A location owner or location operator that enters into an agreement with a master licensee for the placement of bona fide coin operated amusement machines and that subsequently abandons the location or repudiates or breaches such agreement without legal basis for doing so shall be personally liable for all damages to the master licensee arising under such agreement.

(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 a master licensee and a location owner or location operator; provided, however, that an employee of a master licensee may receive compensation, including a commission, for such agreements or contracts. A master licensee shall not pay a commission or provide anything of value to any person who is an employee, independent contractor, or immediate family member of a location owner or location operator.

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

SECTION 8.

Said title 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;

(2.1) The payment by one master licensee of any kind, whether monetary or otherwise, to another master licensee, except in the case of a bona fide acquisition of location agreements;

(3) A location owner or location operator asking, demanding, or accepting 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 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 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 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 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.

(b) The provision by the master licensee of non-fixtures on or within a building in which there is a licensed location at which bona fide coin operated amusement machines are located, including, but not limited to, branded posters; signage, including, but not limited to, digital video signage; rugs; seating; removable partition walls; or wall coverings to a

location owner or location operator with whom the master licensee has a contract for the placement of Class B machines shall not be deemed to be unfair methods of competition or unfair or deceptive acts under this article. Such non-fixtures shall be exclusively for the facilitation and promotion of the play of such Class B machines and the redemption of approved gift cards. Such non-fixtures shall remain the property of the master licensee and shall be removed not later than when the Class B machines are removed from the location."

SECTION 9.

Said title is further amended by revising paragraph (2) of 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:

"(2) The corporation shall have jurisdiction of all disputes between and among any license applicants, licensees, or former licensees whose licenses were issued or pending pursuant to this article relating in any way to any agreement involving coin operated amusement machines, distribution of funds, tortious interference with contract, other claims against a subsequent master ~~license holder~~ licensee 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 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 email address shall be adequate service on the licensee for a hearing on the dispute. All

disputes 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."

SECTION 10.

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

SECTION 11.

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