

1 HB436
2 183023-1
3 By Representative Faulkner
4 RFD: Ways and Means General Fund
5 First Read: 16-MAR-17

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, each person, firm,
9 corporation, association, or copartnership
10 operating an amusement or entertainment machine
11 business where the machine is operated by the use
12 of coin, cash, token, or credit card is required to
13 pay an annual privilege license tax based on the
14 total sales of each machine.

15 This bill would levy an annual license fee
16 on the privilege of owning and operating a bona
17 fide amusement or entertainment machine for
18 commercial use by the public, with the exception of
19 a single business location with 50 machines or
20 more, and an additional annual fee for each
21 machine.

22 This bill would provide for the collection
23 of the fees.

24 This bill would provide for civil penalties
25 for violations.

26 This bill would provide that it may not be
27 construed to make legal an otherwise illegal device

1 or to authorize or permit gambling on any device
2 whatsoever.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 Relating to amusement or entertainment machines; to
9 levy an annual license fee on the privilege of owning a bona
10 fide amusement or entertainment machine for commercial use by
11 the public, regardless of the total sales derived from the
12 machines and an annual fee for each machine; to provide for
13 the collection of the fees; to provide a civil penalty for a
14 violation; and to provide that this bill may not be construed
15 to make legal an otherwise illegal device or to authorize or
16 permit gambling on any device whatsoever.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. (a) This act shall be known and may be
19 cited as the "Amusement-Entertainment Machine Fee Act."

20 (b) This act does not apply to any single business
21 or arcade location with 50 machines or more. Such a business
22 or arcade shall operate under their current fee structure and
23 shall not be subject to any fees imposed by this act.

24 Section 2. The following words shall have the
25 following meanings unless the context clearly indicates
26 otherwise:

1 (1) APPLICANT or LICENSEE. An owner, as defined in
2 this act, who is licensed to do business in this state,
3 including an owner's officers, directors, shareholders,
4 individuals, members of any association or other entity not
5 specified, and, when applicable in context, the business
6 entity itself.

7 (2) BONA FIDE AMUSEMENT MACHINE. a. A machine of any
8 kind or character used by the public to provide amusement or
9 entertainment, whose operation requires the payment by the
10 insertion of a coin, bill, other money, credit card, token,
11 ticket, card, or similar object, whether or not it affords an
12 award to a successful player, and which can be legally shipped
13 interstate according to federal law, including, but not
14 limited to, the following:

- 15 1. Pinball machines.
- 16 2. Console machines.
- 17 3. Video games.
- 18 4. Crane machines.
- 19 5. Claw machines.
- 20 6. Pusher machines.
- 21 7. Bowling machines.
- 22 8. Novelty arcade games.
- 23 9. Foosball or table soccer machines.
- 24 10. Miniature racetrack, football, or golf machines.
- 25 11. Target or shooting gallery machines.
- 26 12. Basketball machines.
- 27 13. Shuffleboard games.

- 1 14. Kiddie ride games.
- 2 15. Skeeball machines.
- 3 16. Air hockey machines.
- 4 17. Roll down machines.
- 5 18. Trivia machines.
- 6 19. Laser games.
- 7 20. Simulator games.
- 8 21. Virtual reality machines.
- 9 22. Maze games.
- 10 23. Racing games.
- 11 24. Coin-operated pool tables or coin-operated
- 12 billiard tables.
- 13 25. Any other similar amusement machine which can be
- 14 legally operated in Alabama.
- 15 b. The term also means a machine of any kind or
- 16 character used by the public to provide music whose operation
- 17 requires the payment of or the insertion of a coin, bill,
- 18 other money, credit card, token, ticket, card, or similar
- 19 object such as jukeboxes or other similar types of music
- 20 machines.
- 21 c. The term bona fide amusement machine does not
- 22 include the following:
- 23 1. Coin-operated washing machines or dryers.
- 24 2. Vending machines which for payment of money
- 25 dispense products or services.
- 26 3. Gas and electric meters.
- 27 4. Pay telephones.

- 1 5. Pay toilets.
- 2 6. Cigarette vending machines.
- 3 7. Coin-operated scales.
- 4 8. Coin-operated gumball machines.
- 5 9. Coin-operated parking meters.
- 6 10. Coin-operated television sets which provide
- 7 cable or network programming.
- 8 11. Coin-operated massage chairs or beds.
- 9 12. Machines which are not legally permitted to be
- 10 operated in Alabama.

11 (3) COMMISSIONER. The Commissioner of the Alabama
12 Department of Revenue.

13 (4) DECAL. The decal issued to each machine owner
14 for each bona fide amusement machine to show proof of payment
15 of the fee.

16 (5) LOCATION OWNER or LOCATION OPERATOR. An owner or
17 operator of a business or premises where one or more bona fide
18 amusement machines are available for commercial use and play
19 by the public.

20 (6) MASTER LICENSE. The certificate that each owner
21 of a bona fide amusement machine is required to obtain.

22 (7) OWNER. A person, individual, firm, company,
23 association, or other business entity owning any bona fide
24 amusement machine, except that owner does not include an
25 individual who owns a bona fide amusement machine solely for
26 personal use and who does not make the machine available for
27 play by others at a charge, either directly or indirectly.

1 Section 3. (a) The fee imposed by this act shall be
2 the exclusive fee levied on bona fide amusement machines. A
3 local government may not impose any tax, fee, or assessment of
4 any kind on the machines. Nothing contained in this act shall
5 affect the liability of a person for state or local sales tax
6 that is imposed from the sale of the machine.

7 (b) The supervision and collection of the fees
8 imposed by this act are under the direction of the Alabama
9 Department of Revenue. The commissioner may promulgate rules
10 to effectuate the purposes of this act. All rules shall be
11 promulgated in accordance with the Alabama Administrative
12 Procedure Act 90 days prior to January 1, 2018.

13 (c) The fees imposed by this act shall be
14 administered and collected on an annual basis for the
15 privilege of owning or operating a bona fide amusement machine
16 used commercially for public play.

17 Section 4. (a) Commencing January 1, 2018, there is
18 levied an annual master license fee on the privilege of owning
19 bona fide amusement machines for commercial use by the public
20 play. Prior to exercising the privilege each owner who offers
21 others the opportunity to play for a charge, whether directly
22 or indirectly, any bona fide amusement machine shall pay to
23 the commissioner the annual master license fee as follows:

24 (1) Level one master license. For five or fewer
25 machines, the owner shall pay a master license fee of five
26 hundred dollars (\$500).

1 (2) Level two master license. For six to 10
2 machines, the owner shall pay a master license fee of one
3 thousand dollars (\$1,000).

4 (3) Level three master license. For 11 to 50
5 machines the owner shall pay a master license fee of one
6 thousand five hundred dollars (\$1,500).

7 (4) Level four master license. For 51 to 100
8 machines, the owner shall pay a master license fee of three
9 thousand five hundred dollars (\$3,500).

10 (5) Level five master license. For 101 or more
11 machines, the owner shall pay a master license fee of five
12 thousand dollars (\$5,000).

13 (b) Upon payment of the annual master license fee,
14 the commissioner shall issue the appropriate master license
15 certificate to the owner, all sufficient copies for display,
16 which shall contain the name and address of the owner.

17 (c) An owner may obtain a six-month master license
18 on or after July 1 of a tax year by paying a fee of two
19 hundred fifty dollars (\$250) for a level one license, one
20 thousand dollars (\$1,000) for a level two license, one
21 thousand seven hundred fifty dollars (\$1,750) for a level
22 three license, and two thousand five hundred dollars (2,500)
23 for a level four license. The license shall expire on December
24 31 of the year in which the license is issued.

25 (d) A refund or credit of the master license fee
26 levied in this section may not be made to any owner who ceases

1 to own bona fide amusement machines prior to the end of the
2 license year.

3 (e) The commissioner may issue a duplicate original
4 master license certificate if an original master license
5 certificate has been lost, stolen, or destroyed. If an
6 original master license certificate is lost, stolen, or
7 destroyed, a sworn, written statement must be submitted
8 explaining the circumstances by which the master license was
9 lost, stolen, or destroyed, and a replacement fee of one
10 hundred dollars (\$100) shall be paid before a duplicate
11 original master license certificate may be issued.

12 (f) A master license is effective for a single
13 business entity.

14 (g) A master license is nontransferable.

15 (h) Application for renewal of a master license must
16 be made to the commissioner by October 1 for the ensuing
17 calendar year. An owner who properly completes a renewal
18 application, timely files the renewal application with the
19 commissioner, and remits all fees with the renewal application
20 may continue to offer bona fide amusement machines for play by
21 the public after December 31 if the renewal license and new
22 decals have not been issued; provided, however, that the owner
23 shall display with the expired master license in each location
24 where bona fide amusement machines are offered for play by the
25 public a copy of a receipt showing that the application for
26 the renewal license was timely filed.

1 (i) An original application for a master license, an
2 application for a six-month license, or a renewal application
3 must be accompanied by the appropriate fees.

4 (j) The commissioner shall give written notice to an
5 applicant or licensee of any denial of an application or
6 renewal application or revocation of a master license.

7 (k) The commissioner may not renew a master license
8 and shall suspend or revoke a master license if the
9 commissioner finds that the applicant or licensee owes to the
10 state any taxes, fees, delinquent taxes or fees, or penalties
11 resulting from delinquent taxes, or that an owner has made a
12 machine available for commercial use and play by the public
13 without a valid decal attached.

14 (l) The licensee or owner of the machine shall
15 securely affix a decal to each machine available for
16 commercial use and play by the public. Owners may transfer
17 machines from location to location if all machines in
18 commercial use available for play by the public have a decal
19 and the owner uses the decals only for machines that the owner
20 owns.

21 Section 5. (a) Commencing January 1, 2018, each
22 licensee or owner of the machine shall pay an annual fee of
23 twenty-five dollars (\$25) for each bona fide amusement machine
24 offered to the public for play. The annual fee levied by this
25 section shall be collected by the commissioner on a calendar
26 year basis. The commissioner may establish procedures for
27 collection of the fee and set due dates for payment of the

1 fees. No refund or credit of the fee shall be allowed to any
2 licensee or owner who ceases to offer bona fide amusement
3 machines to the public for commercial use prior to the end of
4 any license period. Upon payment of the license fee, the
5 commissioner shall issue a decal to be affixed to the machine
6 by the licensee.

7 (b) The commissioner may refuse to issue or renew a
8 master license or may revoke or suspend a master license if:

9 (1) The licensee or applicant has intentionally
10 violated a provision of this act or a regulation promulgated
11 under this act.

12 (2) The licensee or applicant has intentionally
13 failed to provide requested information or answer a question,
14 intentionally made a false statement in or in connection with
15 his or her application or renewal, or omitted any material or
16 requested information.

17 (3) The licensee or applicant used coercion to
18 accomplish a purpose or to engage in conduct regulated by the
19 commission.

20 (4) The licensee or applicant has engaged in unfair
21 methods of competition and unfair or deceptive acts or
22 practices.

23 (5) An applicant, a person, firm, corporation, legal
24 entity, or organization having any interest in any operation
25 for which an application has been submitted, fails to meet any
26 obligations imposed by the tax laws or other laws or
27 regulations of this state.

1 Section 6. (a) A civil penalty of not more than five
2 hundred dollars (\$500) shall be assessed by the commissioner
3 for each machine that is available for commercial use and play
4 by the public without a decal.

5 (b) A civil penalty of not less than five hundred
6 dollars (\$500) nor more than a thousand dollars (\$1,000) per
7 machine shall be assessed by the commissioner against anyone
8 who:

9 (1) Knowingly makes a bona fide amusement machine
10 available for commercial use and play by the public without a
11 decal affixed to the machine.

12 (2) Knowingly permits bona fide amusement machines
13 to be operated by the public on the premises of the business
14 without a decal affixed to each machine.

15 (3) Intentionally removes a decal from a bona fide
16 amusement machine.

17 Section 7. (a) The commissioner shall provide
18 written notice to the licensee of a bona fide machine, and the
19 location owner, that the machine is not in compliance with
20 this act, and may impose a civil penalty of fifty dollars
21 (\$50) for each machine that is not in compliance. The penalty
22 shall be paid in 30 days and, if the penalty is not paid and
23 the machine is still not in compliance with this section, the
24 penalty shall be increased to one hundred dollars (\$100) for
25 each machine that is not in compliance. After 60 days from the
26 issuance of the initial notice, the commissioner may

1 confiscate each machine that is not in compliance with this
2 act.

3 (b) (1) A master licensee or location owner may
4 contest a civil penalty or confiscation by filing, within 30
5 days from the date of the assessment or the confiscation, a
6 written request for an opportunity to be heard, which shall
7 clearly state the reasons for the request, including any facts
8 to demonstrate that a violation has not occurred.

9 (2) If the commissioner or his or her designee
10 determines that the master licensee, or location owner, has
11 stated adequate facts or legal grounds to warrant a hearing,
12 the commissioner or his or her designee shall provide written
13 notice of the hearing to show cause why a civil penalty should
14 not be assessed or that the machines should not be
15 confiscated, and shall mail written notice to the master
16 licensee, and location owner of the date, time, and place of
17 the hearing. The determination shall be within the discretion
18 of the commissioner or his or her designee.

19 (3) A request for postponement of a hearing so
20 scheduled shall only be granted where the rights of an owner,
21 a master licensee, and location owner would be substantially
22 prejudiced by the denial of the request. Only the commissioner
23 or his or her designee has discretion to grant the request.

24 (4) Following a hearing or after a waiver of the
25 request for a hearing, the commissioner or his or her designee
26 may uphold or modify the civil penalty or confiscation. The

1 determination shall be within the sole discretion of the
2 commissioner or his or her designee.

3 (5) The commissioner or his or her designee may file
4 an action for the collection of civil penalties imposed
5 pursuant to this section in the county where the violation
6 occurred.

7 (c) All moneys received from the assessment of any
8 penalty pursuant to this section shall accrue to the State
9 General Fund.

10 Section 8. This act may not be construed to make
11 legal an otherwise illegal device or to authorize or permit
12 gambling on any device whatsoever.

13 Section 9. This act shall become effective
14 immediately following its passage and approval by the
15 Governor, or its otherwise becoming law.