

1 HB445  
2 174983-1  
3 By Representative Faulkner  
4 RFD: Ways and Means General Fund  
5 First Read: 17-MAR-16

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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 coin, cash, token, or credit card amusement or  
18 entertainment machine for commercial use by the  
19 public, regardless of the total sales derived from  
20 such machines, with the exception of a single  
21 business location with 50 machines or more.

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

24 This bill would provide for a civil penalty  
25 for a violation.

26  
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 Relating to amusement or entertainment machines; to  
5 levy an annual license fee on the privilege of owning a bona  
6 fide coin, cash, token, or credit card amusement or  
7 entertainment machine for commercial use by the public,  
8 regardless of the total sales derived from the machines; to  
9 provide for the collection of the license tax; and to provide  
10 a civil penalty for a violation.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 (b) This act does not apply to any single business  
15 or arcade location with 50 machines or more. Such a business  
16 or arcade shall operate under their current fee structure.

17 Section 2. The following words shall have the  
18 following meanings unless the context clearly indicates  
19 otherwise:

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

26 (2) BONA FIDE COIN-OPERATED AMUSEMENT MACHINE. a. A  
27 machine of any kind or character used by the public to provide

1 amusement or entertainment, whose operation requires the  
2 payment by the insertion of a coin, bill, other money, credit  
3 card, token, ticket, card, or similar object, whether or not  
4 it affords an award to a successful player, and which can be  
5 legally shipped interstate according to federal law,  
6 including, but not limited to, the following:

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

1                   22. Maze games.

2                   23. Racing games.

3                   24. Coin-operated pool tables or coin-operated  
4 billiard tables.

5                   25. Any other similar amusement machine which can be  
6 legally operated in Alabama.

7                   b. The term also means a machine of any kind or  
8 character used by the public to provide music whose operation  
9 requires the payment of or the insertion of a coin, bill,  
10 other money, credit card, token, ticket, card, or similar  
11 object such as jukeboxes or other similar types of music  
12 machines.

13                   c. The term bona fide coin-operated amusement  
14 machine does not include the following:

15                   1. Coin-operated washing machines or dryers.

16                   2. Vending machines which for payment of money  
17 dispense products or services.

18                   3. Gas and electric meters.

19                   4. Pay telephones.

20                   5. Pay toilets.

21                   6. Cigarette vending machines.

22                   7. Coin-operated scales.

23                   8. Coin-operated gumball machines.

24                   9. Coin-operated parking meters.

25                   10. Coin-operated television sets which provide  
26 cable or network programming.

27                   11. Coin-operated massage chairs or beds.

1           12. Machines which are not legally permitted to be  
2 operated in Alabama.

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

5           (4) DECAL. The decal issued to each machine owner  
6 for each bona fide coin-operated amusement machine to show  
7 proof of payment of the fee.

8           (5) LOCATION LICENSE. The initial and annually  
9 renewed license which every location or premises owner or  
10 location operator shall purchase and always display for public  
11 viewing in the location where one or more bona fide  
12 coin-operated amusement machines are available for commercial  
13 use by the public for play in order to operate legally any  
14 machine in this state.

15           (6) LOCATION LICENSE FEE. The fee paid per machine  
16 on the premises of the location owner or location operator to  
17 obtain the location license.

18           (7) LOCATION OWNER or LOCATION OPERATOR. An owner or  
19 operator of a business or premises where one or more bona fide  
20 coin-operated amusement machines are available for commercial  
21 use and play by the public.

22           (8) MASTER LICENSE. The certificate that each owner  
23 of a bona fide coin-operated amusement machine is required to  
24 obtain.

25           (9) OWNER. A person, individual, firm, company,  
26 association, or other business entity owning any bona fide  
27 coin-operated amusement machine, except that owner does not

1 include an individual who owns a bona fide coin-operated  
2 amusement machine solely for personal use and who does not  
3 make the machine available for play by others at a charge,  
4 either directly or indirectly.

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

12 (b) The supervision and collection of the fees  
13 imposed by this act are under the direction of the Alabama  
14 Department of Revenue. The commissioner may promulgate rules  
15 to effectuate the purposes of this act. All rules shall be  
16 promulgated in accordance with the Alabama Administrative  
17 Procedure Act.

18 (c) The fees imposed by this act shall be  
19 administered and collected on an annual basis for the  
20 privilege of owning or operating a bona fide coin-operated  
21 amusement machine used commercially for public play for tax  
22 years beginning on January 1, 2017, with application for the  
23 year 2017 beginning on October 1, 2016.

24 Section 4. (a) There is levied an annual license fee  
25 on the privilege of owning bona fide coin-operated amusement  
26 machines for commercial use by the public. Prior to exercising  
27 the privilege each owner who offers others the opportunity to

1 play for a charge, whether directly or indirectly, any bona  
2 fide coin-operated amusement machine shall pay to the  
3 commissioner the annual license fee as follows:

4 (1) Level one license. For five or fewer machines,  
5 the owner shall pay a master license fee of five hundred  
6 dollars (\$500). If the owner acquires a sixth or greater  
7 number of machines during a calendar year which require a  
8 certificate for lawful operation under this act so that the  
9 total number of machines owned does not exceed 10 machines or  
10 more, the owner shall pay an additional master license fee of  
11 five hundred dollars (\$500); however, if the number of  
12 machines exceeds 10 but not more than 50, the additional  
13 master license fee shall be one thousand five hundred dollars  
14 (\$1,500).

15 (2) Level two license. For six or more machines but  
16 not more than 50 machines, the owner shall pay a master  
17 license fee of two thousand dollars (\$2,000). If the owner  
18 acquires more than 50 machines during a calendar year which  
19 require a certificate for lawful operation under this act, the  
20 owner shall pay an additional master license fee of one  
21 thousand five hundred dollars (\$1,500).

22 (3) Level three license. For 51, but not more than  
23 100 machines, the owner shall pay a master license fee of  
24 three thousand five hundred dollars (\$3,500); however, if the  
25 owner acquires more than 100 machines during the calendar  
26 year, the owner shall pay an additional license fee of one  
27 thousand five hundred dollars (\$1,500).



1                   (4) Level four license. For 101 or more machines,  
2 the owner shall pay a master license fee of five thousand  
3 dollars (\$5,000).

4                   (b) Upon payment of the annual master license fee,  
5 the commissioner shall issue the appropriate master license  
6 certificate to the owner. Each master license certificate with  
7 sufficient copies for display shall contain the name and  
8 address of the owner.

9                   (c) An owner may obtain a six-month master license  
10 on or after July 1 of a tax year by paying a fee of two  
11 hundred fifty dollars (\$250) for a level one license, one  
12 thousand dollars (\$1,000) for a level two license, one  
13 thousand seven hundred fifty dollars (\$1,750) for a level  
14 three license, and two thousand five hundred dollars (2,500)  
15 for a level four license. The license shall expire on December  
16 31 of the current tax year.

17                   (d) A refund or credit of the master license tax  
18 levied in this section may not be made to any owner who ceases  
19 to own bona fide coin-operated amusement machines prior to the  
20 end of any tax year.

21                   (e) The commissioner may issue a duplicate original  
22 master license certificate if an original master license  
23 certificate has been lost, stolen, or destroyed. If an  
24 original master license certificate is lost, stolen, or  
25 destroyed, a sworn, written statement must be submitted  
26 explaining the circumstances by which the master license was  
27 lost, stolen, or destroyed, and a replacement fee of one

1 hundred dollars (\$100) shall be paid before a duplicate  
2 original master license certificate may be issued.

3 (f) A master license is effective for a single  
4 business entity.

5 (g) A master license is nontransferable.

6 (h) Application for renewal of a master license must  
7 be made to the commissioner by October 1 of each year. Owners  
8 who apply after the October 1 date shall remit an apportioned  
9 amount equal to the remaining months of the year after the  
10 application date. An owner who properly completes a renewal  
11 application, timely files the renewal application with the  
12 commissioner, and remits all fees with the renewal application  
13 may continue to offer bona fide coin-operated amusement  
14 machines for play by the public after December 31 if the  
15 renewal license and new stickers have not been issued;  
16 provided, however, that the owner shall display with the  
17 expired master license in each location where bona fide  
18 coin-operated amusement machines are offered for play by the  
19 public a copy of a receipt showing that the application for  
20 the renewal license was timely filed.

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

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

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

8           (l) Acceptance and display of a location license  
9 issued under this act constitutes consent by the location  
10 owner or business operator of the business where a bona fide  
11 coin-operated amusement machine is available for commercial  
12 use and play by the public that the commissioner and the  
13 commissioner's agents may freely enter the business premises  
14 during normal business hours for the purpose of ensuring  
15 compliance with this act.

16           (m) The licensee or owner of the machine shall  
17 securely affix a decal to each machine available for  
18 commercial use and play by the public. Owners may transfer  
19 machines from location to location if all machines in  
20 commercial use available for play by the public have a decal  
21 and the owner uses the stickers only for machines that the  
22 owner owns, and provided that the location owner has paid the  
23 location fee for the applicable number of machines.

24           Section 5. (a) Each licensee or owner of the machine  
25 shall pay an annual location license fee of fifteen dollars  
26 (\$15) for each bona fide coin-operated amusement machine  
27 offered to the public for play. The annual location license

1 fee levied by this section shall be collected by the  
2 commissioner on an annual basis from January 1 to December 1  
3 each year. The commissioner may establish procedures for  
4 location license fee collection and set due dates for payment  
5 of the fees. No refund or credit of the location license fee  
6 shall be allowed to any licensee or owner who ceases to offer  
7 bona fide coin-operated amusement machines to the public for  
8 commercial use prior to the end of any license period.

9 (b) The commissioner may refuse to issue or renew a  
10 location license or may revoke or suspend a location license  
11 issued if:

12 (1) The licensee or applicant has intentionally  
13 violated a provision of this act or a regulation promulgated  
14 under this act.

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

20 (3) The licensee or applicant used coercion to  
21 accomplish a purpose or to engage in conduct regulated by the  
22 commission.

23 (4) The licensee or applicant has engaged in unfair  
24 methods of competition and unfair or deceptive acts or  
25 practices.

26 (5) An applicant, a person, firm, corporation, legal  
27 entity, or organization having any interest in any operation

1 for which an application has been submitted, fails to meet any  
2 obligations imposed by the tax laws or other laws or  
3 regulations of this state.

4 Section 6. (a) A civil penalty of not more than  
5 fifty dollars (\$50) shall be assessed by the commissioner for  
6 each machine that is available for commercial use and play by  
7 the public without a decal.

8 (b) A civil penalty of one hundred dollars (\$100)  
9 per machine shall be assessed by the commissioner against  
10 anyone who:

11 (1) Knowingly makes a bona fide coin-operated  
12 amusement machine available for commercial use and play by the  
13 public without a decal affixed to the machine.

14 (2) Knowingly permits bona fide coin-operated  
15 amusement machines to be operated by the public on the  
16 premises of the business without a decal affixed to each  
17 machine.

18 (3) Intentionally removes a decal from a bona fide  
19 coin-operated amusement machine.

20 Section 7. (a) The commissioner shall provide  
21 written notice to the licensee of a bona fide coin-operated  
22 machine, and the location owner, that the machine is not in  
23 compliance with this act, and may issue a fine of fifty  
24 dollars (\$50) for each machine that is not in compliance. The  
25 fine shall be paid in 30 days and, if the fine is not paid and  
26 the machine is still not in compliance with this section, the  
27 fine shall be increased to one hundred dollars (\$100) for each

1 machine that is not in compliance. After 60 days from the  
2 issuance of the initial notice, the commissioner may  
3 confiscate each machine that is not in compliance with this  
4 act.

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

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

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

26 (4) Following a hearing or after a waiver of the  
27 request for a hearing, the commissioner or his or her designee

1 may uphold or modify the civil penalty or confiscation. The  
2 determination shall be within the sole discretion of the  
3 commissioner or his or her designee.

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

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

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

14 Section 9. This act shall become effective on the  
15 first day of the third month following its passage and  
16 approval by the Governor, or its otherwise becoming law.