

House Bill 544

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

A BILL TO BE ENTITLED

AN ACT

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

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

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

27 **SECTION 1.**

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

32 "50-27-5.

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

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

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

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

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

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

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

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

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

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

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

74 **SECTION 2.**

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

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

- 86 (i) Pinball machines;
87 (ii) Console machines;
88 (iii) Video games;
89 (iv) Crane machines;
90 (v) Claw machines;
91 (vi) Pusher machines;
92 (vii) Bowling machines;
93 (viii) Novelty arcade games;
94 (ix) Foosball or table soccer machines;
95 (x) Miniature racetrack, football, or golf machines;

- 96 (xi) Target or shooting gallery machines;
 97 (xii) Basketball machines;
 98 (xiii) Shuffleboard games;
 99 (xiv) Kiddie ride games;
 100 (xv) Skee-ball machines;
 101 (xvi) Air hockey machines;
 102 (xvii) Roll down machines;
 103 (xviii) Trivia machines;
 104 (xix) Laser games;
 105 (xx) Simulator games;
 106 (xxi) Virtual reality machines;
 107 (xxii) Maze games;
 108 (xxiii) Racing games;
 109 (xxiv) Coin operated pool tables or coin operated billiard tables as defined in
 110 paragraph (3) of Code Section 43-8-1; and
 111 (xxv) Any other similar amusement machine which can be legally operated in
 112 Georgia.

113 The term also means a machine of any kind or character used by the public to provide
 114 music whose operation requires the payment of or the insertion of a coin, bill, other
 115 money, token, ticket, card, or similar object such as jukeboxes or other similar types of
 116 music machines. A bona fide coin operated amusement machine shall not be deemed
 117 a prohibited device as described in paragraph (2) of Code Section 16-12-20 because it
 118 is used in violation of Code Section 16-12-35. Notwithstanding any provision of law
 119 to the contrary, the merchandise, prizes, toys, gift certificates, gift card, lottery gift card,
 120 novelties, or rewards which may be awarded to a successful player shall include or be
 121 redeemable or exchangeable for any goods or services which the person to which such
 122 goods or services are to be awarded is entitled or permitted by law to purchase."

123 **SECTION 3.**

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

127 "(3) 'Class A machine' means a bona fide coin operated amusement machine that is not
128 a Class B machine, does not allow a successful player to carry over points won on one
129 play to a subsequent play or plays, and:

130 (A) Provides no reward to a successful player;

131 (B) Rewards a successful player only with free replays or additional time to play;

132 (C) Rewards a successful player with noncash merchandise, prizes, toys, gift
133 certificates, or novelties in compliance with the provisions of subsection (c) or
134 paragraph (1) of subsection (d) of Code Section 16-12-35, and does not reward a
135 successful player with any item prohibited as a reward in subsection (i) of Code
136 Section 16-12-35 or any reward redeemable as an item prohibited as a reward in
137 subsection (i) of Code Section 16-12-35;

138 (D) Rewards a successful player with points, tokens, tickets, or other evidence of
139 winnings that may be exchanged only for items listed in subparagraph (C) of this
140 paragraph; or

141 (E) Rewards a successful player with any combination of items listed in
142 subparagraphs (B), (C), and (D) of this paragraph.

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

146 "(5.1) 'Gift certificate' or 'gift card' means an electronic payment device issued for a
147 specific amount which:

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

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

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

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

155 (E) Is loaded or reloaded only by the location licensee or its employees at the location
156 licensee's premises.

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

162 "(8.1) 'Lottery gift card' means an electronic payment device created by the corporation
163 which is issued for a specific amount which:

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

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

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

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

172 (E) Is loaded or reloaded only by the location licensee or its employees at the location
173 licensee's premises.

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

177 **SECTION 4.**

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

183 "(a.1) Every location owner or location operator shall pay an annual location license fee
184 for each bona fide coin operated amusement machine offered to the public for play. The
185 annual location license fee shall be \$25.00 for each Class A machine and \$125.00 for each
186 Class B machine. The annual location license fee levied by this Code section shall be
187 collected by the corporation, and the board may establish procedures for location license
188 fee collection and set due dates for payment of such fees. The location license fee shall be
189 paid to the corporation by company check, cash, cashier's check, money order, or any other
190 method approved by the chief executive officer. Upon payment, the corporation shall issue
191 a location license certificate that shall state the number of bona fide coin operated
192 amusement machines permitted for each class without further description or identification
193 of specific machines. No refund or credit of the location license fee shall be allowed to any
194 location owner or location operator who ceases to offer bona fide coin operated amusement
195 machines to the public for commercial use prior the end of any license period. An
196 inspector for the corporation shall visit the location of a new location license holder within
197 the first six months following the issuance of the location license for a compliance review."

198 "(2) The licensee or applicant has intentionally failed to provide requested information
199 or answer a question, intentionally made a false statement in or in connection with his or

200 her application or renewal, or omitted any material or requested information. An
201 application shall not be denied on the basis that the applicant is a new business or on the
202 basis of other licenses in the area where the applicant intends to locate;"

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

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

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

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

229 **SECTION 5.**

230 Said title is further amended by revising paragraph (7) of subsection (c) and subsection (d)
231 of Code Section 50-27-73, relating to refusal to issue or renew license, revocation or
232 suspension, hearing, and limitation on issuance of licenses, as follows:

233 "(7) Any applicant, or any person, firm, corporation, legal entity, or organization having
234 any interest in any operation for which an application has been submitted, ~~fails~~ has been
235 finally determined to have failed to meet any obligations imposed by the tax laws or other
236 laws or regulations of this state for which no appeal is remaining."

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

242 **SECTION 6.**

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

247 "(a.1) During the 30 day written notice period for the denial of a license renewal and the
248 pendency of a hearing on a renewal application, any coin operated amusement machines
249 subject to the denial determination shall continue operation until such time as the appeal
250 period ends with no appeal being filed, or until a final decision is entered and all appellate

251 rights have been exhausted, or until the corporation and licensee agree to a resolution,
252 whichever occurs first. In such case, the master licensee and location licensee shall pay all
253 license and permit fees for all subsequent years of operation."

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

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

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

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

277 **SECTION 7.**

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

280 "50-27-76.

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

288 (b) ~~The court shall not substitute its judgment for that of the corporation or chief executive~~
289 ~~officer as to the weight of the evidence on questions of fact committed to the discretion of~~
290 ~~the corporation or chief executive officer. The court may affirm the decision of the~~
291 ~~corporation or chief executive officer in whole or in part; the court shall reverse or remand~~
292 ~~the case for further proceedings if substantial rights of the appellant have been prejudiced~~
293 ~~because the corporation's or chief executive officer's findings, inferences, conclusions, or~~
294 ~~decisions are:~~

295 (1) ~~In violation of constitutional or statutory provisions;~~

296 (2) ~~In excess of the statutory authority of the corporation or chief executive officer;~~

297 (3) ~~Made upon unlawful procedures;~~

298 (4) ~~Affected by other error of law;~~

299 (5) ~~Not reasonably supported by substantial evidence in view of the reliable and~~
300 ~~probative evidence in the record as a whole; or~~

301 (6) ~~Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted~~
302 ~~exercise of discretion~~ Reserved."

303 **SECTION 8.**

304 Said title is further amended in Code Section 50-27-81, relating to administration of article,
305 by adding a new subsection to read as follows:

306 "(d) Not later than January 1, 2022, the chief executive officer shall establish an
307 enforcement unit for the coin operated amusement machine division of the corporation
308 consisting of no fewer than ten forensic accountants. Such enforcement unit shall monitor
309 the flow of funds into and out of master licensees and location licensees and shall ensure
310 compliance by license holders with the provisions of this article."

311 **SECTION 9.**

312 Said title is further amended in Code Section 50-27-82, relating to criminal violations,
313 investigations, seizure and confiscation of machines, repossession, and sealing of machines,
314 by adding a new subsection to read as follows:

315 "(g) Coin operated amusement machines and the revenues therefrom shall not be subject
316 to civil forfeiture proceedings under Chapter 16 of Title 9 nor forfeiture proceedings
317 regarding racketeering influenced and corrupt organizations under Chapter 14 of Title 16.
318 If coin operated amusement machines and the revenues therefrom are seized or confiscated
319 as a result of alleged criminal actions of a location owner or operator or a master license
320 holder or both, such machines and revenues shall be subject to forfeiture under Code
321 Section 50-27-82.1."

322 **SECTION 10.**

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

324 "50-27-82.1.

325 (a) Coin operated amusement machines and the monies contained in the machines
326 themselves which are seized or confiscated as a result of alleged misdemeanor or felony
327 violations of Code Section 16-12-35 by a location owner or operator or a master license
328 holder, or both, may be subject to forfeiture under this Code section.

329 (b) The law enforcement entity which seized or confiscated the coin operated amusement
330 machines or the monies therein shall notify the corporation and the master license holder
331 within 30 days of such seizure or confiscation, and the corporation may file and serve a
332 complaint against the master license holder or the location owner or operator, or both,
333 within 60 days following the date of such seizure or confiscation as to the forfeiture of such
334 machines and the monies therein. If the law enforcement entity fails to notify the
335 corporation and master license holder within 30 days of the seizure or confiscation under
336 this Code section or the corporation fails to file a complaint against the master license
337 holder and location owner or operator within 60 days of the seizure or confiscation under
338 this Code section, the coin operated amusement machines and the monies which were
339 seized or confiscated shall be returned to the master license holder. The persons against
340 whom the corporation files a complaint shall have 30 days following such service to file
341 an answer to such complaint. The parties shall then meet with the assigned hearing officer
342 regarding whether discovery is needed and the extent and time for such discovery.

343 (c) The complaint, if any, shall be heard by a hearing officer of the corporation, appointed
344 as provided in this article, as soon as practicable, but not later than 120 days after the filing
345 of the complaint without good cause shown.

346 (d) The burden of proof shall be on the corporation to prove by a preponderance of the
347 evidence that alleged misdemeanor or felony violations of Code Section 16-12-35 were
348 committed by the location owner or operator and that the master license owner actively
349 participated in such illegal actions. If the corporation proves by a preponderance of the
350 evidence that the location owner or operator engaged in illegal actions regarding the coin

351 operated amusement machines and that the master license holder actively participated in
352 such illegal actions, the hearing officer may enter an order of forfeiture of such machines
353 and the monies therein. The proceeds from the forfeiture of such machines and the monies
354 therein shall be paid to the corporation; provided, however, that, if local law enforcement
355 was involved in investigating or bringing the case to the corporation, the corporation shall
356 retain one-half of such proceeds and the other half shall be paid into the general fund of the
357 county or municipality whose law enforcement agency was involved in the case. The
358 hearing officer shall also be authorized to impose one or more of the sanctions provided
359 by this article on such location owner or operator and master license holder. If the hearing
360 officer finds that the location owner or operator did not engage in illegal actions with
361 regard to such machines, the hearing officer shall enter an order directing that the machines
362 and the monies contained therein and all other items seized be returned to the location
363 owner or operator and the master license holder. If the hearing officer finds that the
364 location owner or operator engaged in misdemeanor or felony violations of Code
365 Section 16-12-35 regarding the coin operated amusement machines but that the master
366 license holder did not actively participate in such actions, the hearing officer shall enter an
367 order forfeiting the portion of the revenues from such machines that were seized or
368 confiscated that would otherwise be due to the location owner or operator, along with any
369 sanctions authorized under this article for such illegal actions, and enter an order directing
370 that the machines and the monies therein that would be due the master license holder and
371 all other items seized which belong to the master license holder be returned to the master
372 license holder. Machines which are forfeited shall become the property of the corporation
373 and shall be disposed of by public auction. In the event that the hearing officer finds that
374 the location owner or operator or the master license holder engaged in misdemeanor or
375 felony violations of Code Section 16-12-35, the hearing officer is authorized to refer such
376 matter to the appropriate prosecuting attorney for criminal prosecution."

377 **SECTION 11.**

378 Said title is further amended in Code Section 50-27-84, relating to limitation on percent of
379 monthly gross retail receipts derived from machines, monthly verified reports, issuance of
380 fine or revocation or suspension of license for violations, and submission of electronic
381 reports, by revising paragraph (3) of subsection (a), subsection (b), and subsection (d) and
382 by adding a new subsection to read as follows:

383 "(3) 'Gross retail receipts' means the total revenue derived by a business at any one
384 business location from the sale of goods and services and the commission earned at any
385 one business location on the sale of goods and services but shall not include revenue from
386 the sale of goods or services for which the business will receive only a commission. The
387 sale of goods or services for which the business will receive only a commission shall not
388 include the sale of any item which the business has purchased for resale. Revenue shall
389 not include the sale of goods and services at wholesale. Gross retail receipts shall include
390 the retail value of all goods, services, and other items which are purchased by the
391 business for resale to customers.

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

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

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

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

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

412 (B) For the second violation at such location in a two-year period, in the amount of the
413 difference between the gross revenues allocated to the location owner or operator from
414 such coin operated amusement machines and the gross revenues from other sources,
415 plus 50 percent of such difference; and

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

419 "(d) In accordance with the provisions of Code Section 50-27-73 and the procedures set
420 out in Code Sections 50-27-74 and 50-27-75, the corporation may fine an applicant or
421 holder of a license, refuse to issue or renew a location license or master license, or revoke
422 or suspend a location license or master license for single or repeated violations of
423 subsection (b) of this Code section, provided that no such sanction shall be enforced until
424 all appeals of such sanction have become final."

425 "(g) Provided that all funds raised from the operation of coin operated amusement
426 machines are used for the charitable purposes of the organization and such organization
427 only operates one location, this Code section shall not apply to entities that are charitable
428 organizations and have a license issued under Part 2 of Article 2 of Chapter 12 of Title 16
429 to operate a bingo game or that are charitable organizations that have been in existence for

430 more than ten years. For the purpose of this Code section, the term 'charitable organization'
431 means an entity described by:

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

433 or

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

435 **SECTION 12.**

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

438 "(b) Before a penalty is imposed in accordance with this Code section, a location owner
439 or location operator shall be entitled to at least 30 days' written notice and, if requested, a
440 hearing as provided in Code Section 50-27-74. Such written notice shall be served in the
441 manner provided for written notices to applicants and holders of licenses in subsection (b)
442 of Code Section 50-27-74, and an order imposing a penalty shall be delivered in the
443 manner provided for delivery of the corporation's orders to applicants for licenses and
444 holders of licenses in Code Section 50-27-75. In hearings under this Code section, the
445 corporation shall have the burden of proof by a preponderance of the evidence."

446 **SECTION 13.**

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

450 "(3)(A) Any written agreement entered into after April 10, 2013, shall be exclusive as
451 between one bona fide coin operated amusement machine master licensee and one
452 location owner or location operator per location. Any agreement entered into before
453 April 10, 2013, shall not be deemed void for failure to allocate revenue pursuant to
454 Code Section 50-27-87.1 or 50-27-102, and notwithstanding any agreements between

455 master licensees and location owners and location operators, both shall act in a manner
456 that complies with this chapter.

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

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

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

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

466 and provided, further, that, if the applicant for a new location license or the immediately
467 preceding location owner or operator certifies to the corporation that there is no dispute
468 with the master license holder regarding a change in the master license holder, and the
469 master license holder fails to respond or timely pursue arbitration as provided in
470 subsection (d) of Code Section 50-27-102 and the rules promulgated by the corporation,
471 then such applicant shall be free to immediately contract with the master license holder
472 of its choice for placement of machines at the location, provided that such action shall
473 not impair any existing contract rights between the master license holder and the
474 previous location license holder. For the purposes of division (ii) of this subparagraph,
475 the master licensee is either the master licensee that, in the nine months preceding the
476 application for a new location license, had the last written agreement with the
477 immediately preceding location owner or location operator or is the master licensee
478 that, in the nine months preceding the application for a new location license, had
479 requested or commenced a hearing pursuant to Code Section 50-27-102, whichever had
480 machines placed in the location first.

481 (D) On or after July 1, 2021, a licensee or applicant for a license issued pursuant to this
482 article shall, as a condition of such license, accept, adopt, and comply with all of the
483 provisions of this Code section. A location licensee or applicant for a location license
484 shall, as a condition of a license issued pursuant to this article, accept, adopt, and
485 comply with any previously existing contract for the placement of coin operated
486 amusement machines at the location for which such location license is issued, and the
487 issuance of such license shall be deemed to include an assignment of the contract as a
488 matter of law to such location licensee.

489 (E) An agreement between a location owner or operator and a master license owner
490 may be terminated by the location owner or operator under the terms of the agreement
491 or upon just cause based upon, but not limited to, substantial lack of service from the
492 master license holder, materially poor quality coin operated amusement machines, or
493 nonperforming coin operated amusement machines; provided, however, that actions by
494 a third party or the location owner or operator which would constitute a violation of this
495 article shall not constitute just cause, including the offering or receiving of an
496 inducement prohibited by Code Section 50-27-87.1."

497 **SECTION 14.**

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

500 "50-27-87.1.

501 (a) The following acts or practices are deemed unfair methods of competition and unfair
502 and deceptive acts under this article:

503 (1) Until the corporation certifies that the Class B accounting terminal authorized by
504 Code Section 50-27-101 is implemented, a master licensee, location owner, or location
505 operator retaining more than 50 percent of the net monthly proceeds for the operation of
506 a Class B machine;

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

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

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

514 (3) A location owner or location operator, directly or indirectly, asking, demanding, or
515 accepting anything of value, including, but not limited to, a loan or financing
516 arrangement, gift, gift cards, lottery gift cards, procurement fee, lease payments, revenue
517 sharing, or payment of license fees or permit fees from a manufacturer, distributor, or
518 master licensee, as an incentive, inducement, or any other consideration to locate bona
519 fide coin operated amusement machines in that establishment. A location owner that
520 violates this ~~subsection~~ paragraph shall have all of the location owner's state business
521 licenses revoked for a period of one to five years per incident. The location owner also
522 shall be fined up to \$50,000.00 per incident and required to repay any incentive fees or
523 other payments received from the operator; ~~and~~

524 (4) A manufacturer, distributor, operator, master licensee, or individual, directly or
525 indirectly, providing anything of value, including but not limited to a loan or financing
526 arrangement, gift, procurement fee, lease payments, revenue sharing, or payment of
527 license fees or permit fees to a location owner or location operator, as an incentive,
528 inducement, or any other consideration to locate bona fide coin operated amusement
529 machines in that establishment. Neither master license holders nor any other persons
530 shall provide funds or anything of value to location owners or location operators for any
531 purpose, including the purchasing of gift cards, gift certificates, or lottery gift cards for
532 prizes for winning players of bona fide coin operated amusement machines or any other
533 reason. A manufacturer, distributor, operator, master licensee, or individual who violates

534 this ~~subsection~~ paragraph shall have all of his or her state business licenses revoked for
535 a period of one to five years per incident. The individual, manufacturer, distributor,
536 owner, or master licensee also shall be fined up to \$50,000.00 per incident; and
537 (5) A master licensee or location owner or operator enrolling a player in any player
538 tracking system or reward system without the express consent and knowledge of a player.
539 A master licensee or operator shall not offer plays or replays on a coin operated
540 amusement machine to a player without the express consent and knowledge of a player.
541 (b) The providing of physical or digital signage by a master license holder to promote
542 Class B play and explain the noncash redemption law which is placed within the
543 amusement area of a licensed location shall be exempt from the prohibitions set forth in
544 paragraphs (3) and (4) of subsection (a) of this Code section so long as the master license
545 holder does not, directly or indirectly, pay the location licensee any form of consideration
546 for such signage. Such signage shall remain the property of the master license holder and
547 shall be removed not later than when the Class B machines are removed from the location."

548

SECTION 15.

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

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

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

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

560 **SECTION 16.**

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

565 "(c) The advisory board shall establish its own policies and internal operating procedures.
566 Members of the advisory board shall serve without compensation or reimbursement of
567 expenses. The advisory board may report to the corporation in writing at any time. The
568 corporation may invite the advisory board to make an oral presentation to the corporation.
569 The advisory board shall have the authority to adopt rules and regulations and adopt its
570 policies and procedures in accordance with Chapter 13 of this title, the 'Georgia
571 Administrative Procedure Act.'"

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

578 **SECTION 17.**

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

580 "50-27-90.

581 Not later than July 1, 2022, the corporation shall create and provide a lottery gift card.
582 Such lottery gift card shall be a gift card which may be awarded to successful players of
583 Class A and Class B machines and may be redeemed or exchanged for all items allowed
584 as noncash redemption to successful players of Class A and Class B machines under this
585 article. Such lottery gift cards shall be issued only by licensed location owners or location

586 operators. Lottery retailers shall receive 50 cents from the sale of each lottery gift card and
587 the corporation shall receive 50 cents."

588 **SECTION 18.**

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

592 "(d)(1) As a condition of the license issued pursuant to this article, no master licensee or
593 location owner or location operator shall replace or remove a Class A or Class B bona
594 fide coin operated amusement machine from a location until the master licensee and
595 location owner or location operator certify to the corporation that there are no disputes
596 regarding any agreement, distribution of funds, or other claim between the master
597 licensee and location owner or location operator; provided, however, that this
598 certification shall not be required if a master licensee is replacing its own Class A or
599 Class B bona fide coin operated amusement machine at a location. If either the master
600 licensee or location owner or location operator is unable to make the certification
601 required by this Code section, the corporation shall refer the dispute to a hearing officer
602 as set forth in this subsection. If a master license holder certifies that there is a dispute
603 with a location owner or location operator which causes the continued generation of
604 revenue from the master license holder's coin operated amusement machines subject to
605 the alleged dispute pending a decision on the dispute and, after the hearing officer's or
606 court's determination, the location owner or location operator is the prevailing party, the
607 hearing officer or judge shall, in addition to any other remedy provided for in this article,
608 order that any revenues received by or due to the master license holder pending the
609 dispute as a result of the master license holder's certification of a dispute shall not be kept
610 by the master license holder but shall be divided with one-half being awarded to the
611 prevailing party in the dispute, one-fourth being awarded to the corporation, and

612 one-fourth being assigned to the corporation for the purpose of defraying, in whole or in
613 part, the cost of the forensic accountants in the enforcement unit for the coin operated
614 amusement machine division of the corporation. However, if the master license holder
615 is the prevailing party, any revenues received by or due to the location owner or location
616 operator pending the dispute shall not be kept by the location owner or location operator
617 but shall be divided with one-half being awarded to the prevailing party in the dispute,
618 one-fourth being awarded to the corporation, and one-fourth being assigned to the
619 corporation for the purpose of defraying, in whole or in part, the cost of the forensic
620 accountants in the enforcement unit for the coin operated amusement machine division
621 of the corporation. Applicants for licenses shall have the right to submit disputes against
622 existing or previous master licensees or existing or previous location owners or location
623 operators to a hearing officer under this paragraph or take such disputes directly to the
624 superior courts.

625 (2) The corporation shall have concurrent jurisdiction with the superior and state courts
626 of all disputes between and among any licensees or former licensees whose licenses were
627 issued pursuant to this article relating in any way to any agreement involving coin
628 operated amusement machines, distribution of funds, tortious interference with contract,
629 other claims against a subsequent master license holder or location owner, or any other
630 claim involving coin operated amusement machines; provided, however, that this
631 paragraph shall not apply to any agreement which expired on or before April 10, 2013.
632 Except as provided in paragraph (1) of this subsection, the corporation shall refer any
633 dispute certified by any master licensee against any other master licensee or any location
634 owner or location operator or by any location owner or location operator against any
635 master licensee to a hearing officer. For the purpose of service on licensees with respect
636 to disputes, each licensee or former licensee shall register and keep current with the
637 corporation the name of an agent and his or her address and an ~~e-mail~~ email address
638 which shall be made available to any licensee on request. Service by registered mail,

639 courier delivery, or overnight mail delivered to the agent's registered address and to the
640 ~~e-mail~~ email address shall be adequate service on the licensee for a hearing on the
641 dispute. All disputes before the corporation subject to the provisions of this Code section
642 certified by a master licensee, location owner, or location operator shall be decided by a
643 hearing officer approved or appointed by the corporation. The corporation shall adopt
644 rules and regulations governing the selection of hearing officers after consultation with
645 the Bona Fide Coin Operated Amusement Machine Operator Advisory Board. Costs of
646 the hearing officer's review, including any hearing set pursuant to this Code section, shall
647 be shared equally between the parties in the dispute unless provided otherwise in the
648 agreement or by the hearing officer; provided, however, that the corporation shall not be
649 responsible for any of the costs associated with the dispute resolution mechanism set
650 forth in this Code section. If any party fails to timely pay the costs of the hearing officer's
651 review within ten days of service of notice of costs by the hearing officer, the hearing
652 officer shall grant a default judgment on liability against the nonpaying party. The
653 hearing officer shall then consider evidence related to damages or any other relief and
654 shall render judgment based upon a preponderance of the evidence. If a party files for
655 review of a dispute and the opposing party does not file an answer within the time allotted
656 for such response or pay its share of the costs of such review, the hearing officer shall
657 conduct a default hearing without additional fees being assessed of the filing party. If it
658 would facilitate the resolution of any dispute under this Code section, the parties to any
659 dispute under this Code section may agree to submit the dispute to mediation or binding
660 arbitration.

661 (3) The corporation shall also adopt rules governing the procedure, evidentiary matters,
662 and any prehearing discovery applicable to disputes resolved pursuant to this Code
663 section. Such rules shall be consistent with the Georgia Arbitration Code, and the
664 corporation shall consult the Bona Fide Coin Operated Amusement Machine Operator
665 Advisory Board regarding the procedures or rules adopted pursuant to this subsection.

666 Notwithstanding Code Section 9-9-9, such procedures and rules shall include at least the
667 right of notice to produce books, writings, and other documents or tangible things;
668 depositions; and interrogatories.

669 (4) If requested by the master licensee or the location owner or location operator, the
670 hearing officer shall conduct a hearing as to the dispute, but in no case unless extended
671 by the hearing officer for good cause shall the hearing officer conduct a hearing more
672 than 90 days after he or she has been appointed or selected to decide the dispute. No
673 Class B bona fide coin operated amusement machine that is subject to the dispute
674 resolution mechanism required by this Code section shall be removed from the terminal
675 by a master licensee, location owner, or location operator or otherwise prevented by a
676 master licensee, location owner, or location operator from play by the public until a final
677 decision is entered and all appellate rights have been exhausted, or until the master
678 licensee and location owner or location operator agree to a resolution, whichever occurs
679 first.

680 (5)(A) This subsection shall apply to all disputes with respect to which there is a
681 decision, award, or ruling by the corporation pursuant to paragraph (2) of this
682 subsection and shall provide the exclusive means by which such disputes may be
683 appealed, modified, or affirmed. The decision, award, or ruling of the hearing officer
684 shall be the decision of the corporation and may be directly appealed, modified, or
685 affirmed by the Business Court of the Superior Court of Fulton County as provided in
686 this paragraph.

687 (B) If a party seeks review of a dispute pursuant to paragraph (2) of this subsection
688 and, upon the conclusion of the review, such party does not prevail in such dispute,
689 such party shall forfeit any claim to the net revenues produced by the coin operated
690 amusement machines involved in the dispute during the pendency of the review. Such
691 party's share of such net proceeds shall be divided with one-half being awarded to the
692 prevailing party in the dispute, one-fourth being awarded to the corporation, and

693 one-fourth being assigned to the corporation for the purpose of defraying, in whole or
694 in part, the cost of the forensic accountants in the enforcement unit for the coin operated
695 amusement machine division of the corporation.

696 (C) Upon application of a party made within six months of the decision or award of the
697 hearing officer, the Business Court of the Superior Court of Fulton County shall
698 confirm the decision or award unless such decision or award prejudices substantial
699 rights of a party as provided in subsection (h) of Code Section 50-13-19. If the decision
700 or award is found to have prejudiced substantial rights of a party as provided in
701 subsection (h) of Code Section 50-13-19, the court may modify, vacate, or remand the
702 decision or award as appropriate.

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

707 (E) Any judgment or decree considered as a final judgment under this subsection may
708 be appealed pursuant to Chapter 6 of Title 5. ~~The decision of the hearing officer may~~
709 ~~be appealed to the chief executive officer or his or her designee. The chief executive~~
710 ~~officer shall not reverse a finding of fact of the hearing officer if any evidence supports~~
711 ~~the hearing officer's conclusion. The chief executive officer shall not reverse a~~
712 ~~conclusion of law of the hearing officer unless it was clearly erroneous, arbitrary, and~~
713 ~~capricious or exceeded the hearing officer's jurisdiction. The decision of the chief~~
714 ~~executive officer may be appealed to the Superior Court of Fulton County, which court~~
715 ~~shall not reverse the chief executive officer's findings of fact unless it is against the~~
716 ~~weight of the evidence as set forth in Code Section 5-5-21, and the chief executive~~
717 ~~officer's legal conclusions shall not be set aside unless there is an error of law."~~

718 **SECTION 19.**

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

721 **SECTION 20.**

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