

Senate Bill 467

By: Senator Beach of the 21st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 27 of Title 50 of the Official Code of Georgia Annotated,
2 relating to bona fide coin operated amusement machines, so as to increase certain fines for
3 violations by location owners and location operators; to increase certain sanctions for
4 violations of certain agreements; to provide for additional unfair methods of competition and
5 unfair and deceptive acts; to provide for additional sanctions for engaging in unfair methods
6 of competition and unfair and deceptive acts; to provide for related matters; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 3 of Chapter 27 of Title 50 of the Official Code of Georgia Annotated, relating to
11 bona fide coin operated amusement machines, is amended by revising subsections (a) and (b)
12 of Code Section 50-27-87, relating to master licenses and requirements and restrictions for
13 licensees, as follows:

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

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

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

25 (4) On or after July 1, 2013, no person with or applying for a master license shall have
26 an interest in any manufacturer, distributor, location owner, or location operator in this
27 state. No person with or applying for a manufacturer license shall have an interest in a

28 distributor, master licensee, location owner, or location operator in this state. No person
29 applying for a distributor license shall have an interest in a manufacturer, master licensee,
30 location owner, or location operator in this state. Additionally, no group or association
31 whose membership includes manufacturers, distributors, operators, master licensees,
32 location owners, or location operators shall obtain a master license nor shall they form
33 an entity which acts as a master licensee, operator, location owner, or location operator
34 for the purpose of obtaining a master license; provided, however, that through
35 June 30, 2015, this paragraph shall not apply to persons who, as of December 31, 2013,
36 have or will have continuously possessed a master license for ten or more years and, for
37 ten or more years, have or will have continuously owned or operated a location where a
38 bona fide coin operated machine has been placed. Nothing in this paragraph shall
39 prohibit a manufacturer, distributor, or master licensee from entering into a financing
40 arrangement with the other for the sale of machines, including but not limited to a lien,
41 guaranty, or line of credit.

42 (5) Failure to adhere to the provisions of this subsection shall result in a fine of not more
43 than ~~\$50,000.00~~ \$250,000.00 and loss of the license for a period of one to five years per
44 incident and subject the master licensee to the loss of any other state or local license held
45 by the master licensee. The corporation shall notify any state or federal agency that
46 issues a license to such master licensee of the breach of its duties under this article.

47 (b)(1) No bona fide coin operated amusement machine, its parts, or software or hardware
48 shall be placed or leased in any location owner's or location operator's establishment
49 except by a master licensee and only if the owner or agent of the location owner or
50 location operator has entered into a written agreement with a master licensee for
51 placement of the bona fide coin operated amusement machine. Beginning on
52 July 1, 2013, no person with or applying for a location owner's or location operator's
53 license shall have an interest in any person or immediate family member of a person with
54 a master license, or doing business as a distributor, or manufacturer in this state. A
55 location owner or location operator may sell a bona fide coin operated amusement
56 machine to anyone except another location owner or location operator. Failure to adhere
57 to this subsection shall result in a fine of up to ~~\$50,000.00~~ \$250,000.00 and loss of the
58 location owner's or location operator's license for a period of one to five years per
59 incident and subject the location owner or location operator to the loss of any other state
60 or local licenses held by the location owner or location operator. The corporation shall
61 notify any state or federal agency that issues a license to such location owner or location
62 operator of the breach of its duties under this article.

63 (2) A copy of the written agreement shall be on file in the master licensee's and the
 64 location owner's and location operator's place of business and available for inspection by
 65 individuals authorized by the corporation.

66 (3)(A) Any written agreement entered into after April 10, 2013, shall be exclusive as
 67 between one bona fide coin operated amusement machine master licensee and one
 68 location owner or location operator per location. Any agreement entered into before
 69 April 10, 2013, shall not be deemed void for failure to allocate revenue pursuant to
 70 Code Section 50-27-87.1 or 50-27-102, and notwithstanding any agreements between
 71 master licensees and location owners and location operators, both shall act in a manner
 72 that complies with this chapter.

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

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

77 (i) Not place machines in such location for ~~nine~~ 48 months from the date of the
 78 granting of the location license; or

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

82 For the purposes of division (ii) of this subparagraph, the master licensee is the master
 83 licensee that, in the nine months preceding the application for a new location license,
 84 had the last written agreement with the immediately preceding location owner or
 85 location operator or the master licensee that, in the nine months preceding the
 86 application for a new location license, had requested or commenced a hearing pursuant
 87 to Code Section 50-27-102, whichever had machines placed in the location first.

88 (D) Any location owner or location operator that terminates a written agreement with
 89 a master licensee for placement of a bona fide coin operated amusement machine prior
 90 to the expiration of the terms of such written agreement shall be prohibited from
 91 placing a bona fide coin operated amusement machine at such location for 48 months
 92 after such early termination of such agreement."

93 **SECTION 2.**

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

96 "50-27-87.1.

97 The following acts or practices are deemed unfair methods of competition and unfair and
 98 deceptive acts under this article:

- 99 (1) Until the corporation certifies that the Class B accounting terminal authorized by
 100 Code Section 50-27-101 is implemented, a master licensee, location owner, or location
 101 operator retaining more than 50 percent of the net monthly proceeds for the operation of
 102 a Class B machine;
- 103 (2) A master licensee or owner entering into an agreement with a manufacturer or
 104 distributor:
- 105 (A) That grants the owner or master licensee exclusive rights to own, maintain, place,
 106 or lease a type, model, or brand of bona fide coin operated amusement machine in this
 107 state; or
- 108 (B) For the lease of a bona fide coin operated amusement machine, its parts, or
 109 software or hardware;
- 110 (3) A location owner, ~~or location operator, or any third party acting on behalf of or in the~~
 111 interest of a location owner or location operator asking, demanding, or accepting anything
 112 of value, including but not limited to a loan or financing arrangement, gift, cash payment,
 113 procurement fee, lease payments, revenue sharing, or payment of license fees or permit
 114 fees from a manufacturer, distributor, or master licensee, as an incentive, inducement, or
 115 any other consideration to locate or retain bona fide coin operated amusement machines
 116 in that establishment. A location owner, location operator, or any third party acting on
 117 behalf of or in the interest of a location owner or location operator that violates this
 118 subsection shall have all of the location owner's, location operator's, or any such third
 119 party's state business licenses ~~revoked for a period of one to five years per incident sold~~
 120 at public auction with all proceeds thereof to be deposited in the general fund of the state
 121 treasury and will be permanently banned from obtaining any other license as a
 122 manufacturer, distributor, master licensee, location operator, or location owner. The
 123 location owner, location operator, or any third party acting on behalf of or in the interest
 124 of a location owner or location operator that knowingly violates this article also shall be
 125 ~~fined up to \$50,000.00 per incident~~ guilty of a felony and, upon conviction thereof, shall
 126 be punished by imprisonment for not less than one nor more than five years, a fine not
 127 to exceed \$1 million, or both, and be required to repay any incentive fees or other
 128 payments received from the operator in violation of this article; and
- 129 (4) A manufacturer, distributor, operator, master licensee, or individual providing
 130 anything of value, including, but not limited, to a loan or financing arrangement, gift,
 131 cash payment, procurement fee, lease payments, revenue sharing, or payment of license
 132 fees or permit fees to a location owner, ~~or location operator, or any third party acting on~~
 133 behalf of or in the interest of a location owner or location operator, as an incentive,
 134 inducement, or any other consideration to locate or retain bona fide coin operated
 135 amusement machines in that establishment. A manufacturer, distributor, operator, master

136 licensee, or individual who violates this subsection shall have all of his or her state
 137 business licenses ~~revoked for a period of one to five years per incident~~ sold at public
 138 auction with all proceeds thereof to be deposited in the general fund of the state treasury
 139 and will be permanently banned from obtaining any other license as a manufacturer,
 140 distributor, master licensee, location operator, or location owner. The individual,
 141 manufacturer, distributor, owner, ~~or master licensee,~~ or individual that knowingly violates
 142 this article also shall be ~~fined up to \$50,000.00 per incident~~ guilty of a felony and, upon
 143 conviction thereof, shall be punished by imprisonment for not less than one nor more than
 144 five years, a fine not to exceed \$1 million, or both; and

145 (5) Any individual facilitating, serving as an intermediary, or otherwise aiding or
 146 abetting in any financial transaction with a manufacturer, distributor, master licensee,
 147 location owner, or location operator knowing that the transaction is designed in whole or
 148 in part to conceal or disguise the nature of the transaction for the purpose of avoiding or
 149 otherwise circumventing the prohibitions imposed by Code Section 50-27-87.1. Any
 150 person that knowingly violates this paragraph shall be guilty of a felony and, upon
 151 conviction thereof, shall be punished by imprisonment for not less than five nor more
 152 than 20 years and shall be permanently banned from obtaining any license to conduct
 153 business as a manufacturer, distributor, master licensee, location owner, or location
 154 operator in this state. Any manufacturer, distributor, master licensee, location owner, or
 155 location operator convicted of violating this paragraph shall have its licenses and location
 156 contracts sold at public auction with all proceeds thereof to be deposited in the general
 157 fund of the state treasury."

158 **SECTION 3.**

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