

1 HB595
2 165715-4
3 By Representatives Faulkner, Gaston, Wingo and Clouse
4 RFD: Ways and Means General Fund
5 First Read: 30-APR-15

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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.

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

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

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

2
3 Relating to amusement or entertainment machines; to
4 levy an annual license fee on the privilege of owning a bona
5 fide coin, cash, token, or credit card amusement or
6 entertainment machine for commercial use by the public,
7 regardless of the total sales derived from the machines; to
8 provide for the collection of the license tax; and to provide
9 a civil penalty for a violation.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. This act shall be known and may be cited
12 as the "Amusement-Entertainment Machine Tax Act."

13 Section 2. The following words shall have the
14 following meanings unless the context clearly indicates
15 otherwise:

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

22 (2) BONA FIDE COIN-OPERATED AMUSEMENT MACHINE. a. A
23 machine of any kind or character used by the public to provide
24 amusement or entertainment, whose operation requires the
25 payment by the insertion of a coin, bill, other money, credit
26 card, token, ticket, card, or similar object, whether or not
27 it affords an award to a successful player, and which can be

1 legally shipped interstate according to federal law,
2 including, but not limited to, the following:

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

1 25. Any other similar amusement machine which can be
2 legally operated in Alabama.

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

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

- 11 1. Coin-operated washing machines or dryers.
- 12 2. Vending machines which for payment of money
13 dispense products or services.
- 14 3. Gas and electric meters.
- 15 4. Pay telephones.
- 16 5. Pay toilets.
- 17 6. Cigarette vending machines.
- 18 7. Coin-operated scales.
- 19 8. Coin-operated gumball machines.
- 20 9. Coin-operated parking meters.
- 21 10. Coin-operated television sets which provide
22 cable or network programming.
- 23 11. Coin-operated massage beds.
- 24 12. Machines which are not legally permitted to be
25 operated in Alabama.

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

1 (4) LOCATION LICENSE. The initial and annually
2 renewed license which every location or premises owner or
3 location operator shall purchase and display in the location
4 where one or more bona fide coin-operated amusement machines
5 are available for commercial use by the public for play in
6 order to operate legally any machine in this state.

7 (5) LOCATION LICENSE FEE. The fee paid per machine
8 on the premises of the location owner or location operator to
9 obtain the location license.

10 (6) LOCATION OWNER or LOCATION OPERATOR. An owner or
11 operator of a business or premises where one or more bona fide
12 coin-operated amusement machines are available for commercial
13 use and play by the public.

14 (7) MASTER LICENSE. The certificate that each owner
15 of a bona fide coin-operated amusement machine is required to
16 obtain.

17 (8) OWNER. A person, individual, firm, company,
18 association, or other business entity owning any bona fide
19 coin-operated amusement machine, except that owner does not
20 include an individual who owns a bona fide coin-operated
21 amusement machine solely for personal use and who does not
22 make the machine available for play by others at a charge,
23 either directly or indirectly.

24 (9) STICKER. The decal issued to each machine owner
25 for each bona fide coin-operated amusement machine to show
26 proof of payment of the fee.

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

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

14 (c) The fees imposed by this act shall be
15 administered and collected on an annual basis for the
16 privilege of owning or operating a bona fide coin-operated
17 amusement machine used commercially for public play for tax
18 years beginning on January 1, 2016.

19 Section 4. (a) There is levied an annual license fee
20 on the privilege of owning bona fide coin-operated amusement
21 machines for commercial use by the public. Prior to exercising
22 the privilege each owner who offers others the opportunity to
23 play for a charge, whether directly or indirectly, any bona
24 fide coin-operated amusement machine shall pay to the
25 commissioner the annual license fee as follows:

26 (1) Level one license. For five or fewer machines,
27 the owner shall pay a master license fee of five hundred

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

10 (2) Level two license. For six or more machines but
11 not more than 51 machines, the owner shall pay a master
12 license fee of one thousand five hundred dollars (\$1,500). If
13 the owner acquires more than 51 machines during a calendar
14 year which require a certificate for lawful operation under
15 this act, the owner shall pay an additional master license fee
16 of one thousand five hundred dollars (\$1,500).

17 (3) Level three license. For 51, but not more than
18 100 machines, the owner shall pay a master license fee of
19 three thousand dollars (\$3,000); however, if the owner
20 acquires more than 100 machines during the calendar year, the
21 owner shall pay an additional license fee of two thousand
22 dollars (\$2,000).

23 (4) Level four license. For 100 or more machines,
24 the owner shall pay a master license fee of five thousand
25 dollars (\$5,000).

26 (b) Upon payment of the annual master license fee,
27 the commissioner shall issue the appropriate master license

1 certificate to the owner. Each master license certificate with
2 sufficient copier for display shall contain the name and
3 address of the owner.

4 (c) An owner may obtain a six-month master license
5 on or after July 1 of a tax year by paying a fee of two
6 hundred fifty dollars (\$250) for a level one license, five
7 hundred dollars (\$500) for a level two license, and one
8 thousand dollars (\$1,000) for a level three license. The
9 license shall expire on December 31 of the tax year.

10 (d) A copy of an owner's master license certificate
11 shall be prominently displayed at each location where the
12 owner has a bona fide coin-operated amusement machine
13 available for commercial use and play by the public.

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

18 (f) The commissioner may issue a duplicate original
19 master license certificate if an original master license
20 certificate has been lost, stolen, or destroyed. If an
21 original master license certificate is lost, stolen, or
22 destroyed, a sworn, written statement must be submitted
23 explaining the circumstances by which the master license was
24 lost, stolen, or destroyed, and a replacement fee of one
25 hundred dollars (\$100) shall be paid before a duplicate
26 original master license certificate may be issued.

1 (g) A master license is effective for a single
2 business entity.

3 (h) A master license is nontransferable.

4 (i) Application for renewal of a master license must
5 be made to the commissioner by June 1 of each year. An owner
6 who properly completes a renewal application, timely files the
7 renewal application with the commissioner, and remits all fees
8 with the renewal application may continue to offer bona fide
9 coin-operated amusement machines for play by the public after
10 December 31 if the renewal license and new stickers have not
11 been issued; provided, however, that the owner shall display
12 with the expired master license in each location where bona
13 fide coin-operated amusement machines are offered for play by
14 the public a copy of a receipt showing that the application
15 for the renewal license was timely filed.

16 (j) An original application for a master license, an
17 application for a six-month license, or a renewal application
18 must be accompanied by the appropriate fees.

19 (k) The commissioner shall give written notice to an
20 applicant or licensee of any denial of an application or
21 renewal application or revocation of a master license.

22 (l) The commissioner may not renew a master license
23 and shall suspend or revoke a master license if the
24 commissioner finds that the applicant or licensee owes to the
25 state any taxes, fees, delinquent taxes or fees, or penalties
26 resulting from delinquent taxes, or that an owner has made a

1 machine available for commercial use and play by the public
2 without a valid sticker attached.

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

11 (n) The commissioner shall issue a sticker as proof
12 of the payment of the master license machine fee. The machine
13 owner shall securely affix a sticker to each machine available
14 for commercial use and play by the public. Owners may transfer
15 machines from location to location if all machines in
16 commercial use available for play by the public have a sticker
17 and the owner uses the stickers only for machines that the
18 owner owns, and provided that the location owner has paid the
19 location fee for the applicable number of machines.

20 Section 5. (a) Each location owner or location
21 operator shall pay an annual location license fee of fifteen
22 dollars (\$15) for each bona fide coin-operated amusement
23 machine offered to the public for play. The annual location
24 license fee levied by this section shall be collected by the
25 commissioner on an annual basis from January 1 to December 1
26 each year. Upon payment, the commissioner shall issue a
27 location license certificate that shall state the number of

1 bona fide coin-operated amusement machines permitted for the
2 location without further description or identification of
3 specific machines. The commissioner may establish procedures
4 for location license fee collection and set due dates for
5 payment of the fees. No refund or credit of the location
6 license fee shall be allowed to any location owner or location
7 operator who ceases to offer bona fide coin-operated amusement
8 machines to the public for commercial use prior to the end of
9 any license period.

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

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

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

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

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

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

6 Section 6. (a) A civil penalty of not more than
7 fifty dollars (\$50) shall be assessed by the commissioner for
8 each machine that is available for commercial use and play by
9 the public without a sticker or against the location owner
10 when the machine is located in a business where the location
11 license is not displayed.

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

15 (1) Knowingly makes a bona fide coin-operated
16 amusement machine available for commercial use and play by the
17 public without a sticker affixed to the machine.

18 (2) Knowingly permits bona fide coin-operated
19 amusement machines to be operated by the public on the
20 premises of the business without display of the location
21 license or without a sticker affixed to each machine.

22 (3) Intentionally removes a machine tax sticker from
23 a bona fide coin-operated amusement machine.

24 (c) A bona fide coin-operated amusement machine
25 available for commercial use and play by the public in a
26 location that does not have a copy of the location owner or
27 location operator license displayed or any bona fide

1 coin-operated amusement machine available for commercial use
2 and play by the public without a valid sticker affixed may be
3 confiscated as contraband. Prior to confiscation, the owner
4 shall have 30 days in which to remedy any noncompliance with
5 this act, including payment of any penalties.

6 Section 7. (a) The commissioner shall provide
7 written notice to the owner of a bona fide coin-operated
8 machine, and the location owner, or operator that the machine
9 is not in compliance with this act, and may issue a fine of
10 fifty dollars (\$50) for each machine that is not in
11 compliance. The fine shall be paid in 30 days and, if the fine
12 is not paid and the machine is still not in compliance with
13 this section, the fine shall be increased to one hundred
14 dollars (\$100) for each machine that is not in compliance.
15 After 60 days from the issuance of the initial notice, the
16 commissioner may confiscate each machine that is not in
17 compliance with this act.

18 (b) (1) A machine owner, licensee, or location
19 operator, or owner, may contest a civil penalty or
20 confiscation by filing, within 30 days from the date of the
21 assessment or the confiscation, a written request for an
22 opportunity to be heard, which shall clearly state the reasons
23 for the request, including any facts to demonstrate that a
24 violation has not occurred.

25 (2) If the commissioner or his or her designee
26 determines that the machine owner, licensee, or location
27 operator or owner, has stated adequate facts or legal grounds

1 to warrant a hearing, the commissioner or his or her designee
2 shall provide written notice of the hearing to show cause why
3 a civil penalty should not be assessed or that the machines
4 should not be confiscated, and shall mail written notice to
5 the machine owner, licensee, and location owner operator of
6 the date, time, and place of the hearing. The determination
7 shall be within the discretion of the commissioner or his or
8 her designee.

9 (3) A request for postponement of a hearing so
10 scheduled shall only be granted where the rights of a machine
11 owner, licensee, location owner, and operator would be
12 substantially prejudiced by the denial of the request. Only
13 the commissioner or his or her designee has discretion to
14 grant the request.

15 (4) Following a hearing or after a waiver of the
16 request for a hearing, the commissioner or his or her designee
17 may uphold or modify the civil penalty or confiscation. The
18 determination shall be within the sole discretion of the
19 commissioner or his or her designee.

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

24 (c) All moneys received from the assessment of any
25 penalty pursuant to this section shall accrue to the State
26 General Fund.

1 Section 8. This act may not be construed to make
2 legal an otherwise illegal device or to authorize or permit
3 gambling on any device whatsoever.

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