

By: Hupp

H.B. No. 1407

A BILL TO BE ENTITLED

AN ACT

relating to the exhibition of amusement redemption machines by certain nonprofit organizations and others where approved by local option.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2153, Occupations Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. AMUSEMENT REDEMPTION MACHINES

Sec. 2153.501. DEFINITIONS. In this subchapter:

(1) "Amusement redemption machine" means a skill or pleasure coin-operated machine that by operation of chance or a combination of skill and chance affords the user an opportunity to receive a prize, or a representation of value redeemable for a prize, but does not include a machine:

(A) that awards the user noncash merchandise prizes, toys, or novelties solely and directly from the machine, including claw, crane, or similar machines; or

(B) from which the opportunity to receive noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, varies depending upon the user's ability to throw, roll, flip, toss, hit, or drop a ball or other physical object into the machine or a part of the machine, including basketball, skeeball, golf, bowling pusher, or similar machines.

(2) "Authorized organization" has the meaning

1 assigned by Section 2001.002.

2 (3) "Coin-operated machine" includes a machine or  
3 device operated by the payment or insertion of paper currency or any  
4 other consideration.

5 (4) "Political subdivision" means a county, justice  
6 precinct, or municipality.

7 (5) "Representation of value" includes a gift  
8 certificate or gift card that is presented to a merchant in exchange  
9 for merchandise.

10 (6) "User" means an individual who for consideration  
11 operates an amusement redemption machine for the opportunity to win  
12 a prize.

13 Sec. 2153.502. LICENSING OF AUTHORIZED ORGANIZATIONS TO  
14 EXHIBIT AMUSEMENT REDEMPTION MACHINES. (a) The comptroller may  
15 issue to an authorized organization a license under Section  
16 2153.152 that authorizes the holder to exhibit an amusement  
17 redemption machine to a user of the machine as provided by this  
18 subchapter.

19 (b) A license issued under Section 2153.152 does not  
20 authorize the holder to exhibit an amusement redemption machine to  
21 a user of the machine unless the license holder is an authorized  
22 organization and:

23 (1) the authorized organization holds a license issued  
24 under this subchapter;

25 (2) the amusement redemption machine is located in a  
26 political subdivision in which an election has been held under this  
27 subchapter authorizing the use of amusement redemption machines and

1 that authorization is still in effect in that location; and

2 (3) the amusement redemption machine is owned by the  
3 authorized organization or leased by the organization from a person  
4 authorized by law to lease the amusement redemption machine to the  
5 organization.

6 (c) An authorized organization that holds a license to  
7 conduct bingo under Chapter 2001 is entitled to a license under this  
8 subchapter if the organization:

9 (1) provides proof to the comptroller that the license  
10 to conduct bingo is in effect; and

11 (2) pays the applicable license fees and registration  
12 fees under this subchapter for the amusement redemption machines to  
13 be exhibited under the license.

14 (d) A license issued under Subsection (c) expires on the  
15 61st day after the date on which the authorized organization ceases  
16 to hold an active license to conduct bingo issued under Chapter  
17 2001. This subsection does not prohibit the organization from  
18 obtaining a separate license under this subchapter before the  
19 license issued under Subsection (c) expires.

20 (e) The comptroller may not issue a license under this  
21 subchapter to an authorized organization if an officer or director  
22 of the organization has been convicted of a felony, criminal fraud,  
23 a gambling or gambling-related offense, or a crime of moral  
24 turpitude if less than 10 years has elapsed since the termination of  
25 a sentence, parole, mandatory supervision, or community  
26 supervision served for the offense.

27 (f) An authorized organization may not exhibit an amusement

1 redemption machine under a license issued under this subchapter to  
2 a user who is younger than 18 years of age.

3 Sec. 2153.503. FEES. (a) Notwithstanding Section  
4 2153.157, the registration fee for an amusement redemption machine  
5 that is exhibited to users under this subchapter is \$350 per year.

6 (b) In addition to the license fees required by Section  
7 2153.154, the comptroller shall collect an annual license fee  
8 applicable to each license holder described in Section 2153.152 who  
9 owns one or more amusement redemption machines. The annual license  
10 fee under this subsection is \$10,000 per 100 machines or any  
11 fraction of 100 machines owned by the license holder.

12 (c) In addition to any other fee authorized by this chapter,  
13 the comptroller may set and collect a fee necessary to cover any  
14 additional costs of determining the eligibility of an applicant for  
15 a license under this subchapter.

16 Sec. 2153.504. LOCAL OPTION AUTHORIZATION OR PROHIBITION  
17 ELECTIONS. The governing body of a county, justice precinct, or  
18 municipality:

19 (1) shall order and hold an election under this  
20 subchapter in the appropriate political subdivision if the  
21 governing body is presented with a petition for an election that  
22 meets the requirements of this subchapter; and

23 (2) may order and hold an election on its own motion.

24 Sec. 2153.505. ELECTION PETITIONS. (a) A petition for an  
25 election to authorize amusement redemption machines under this  
26 subchapter must have a statement substantially as follows preceding  
27 the space reserved for signatures on each page: "This petition is to

1 require that an election be held in (name of political subdivision)  
2 to authorize amusement redemption machines for charitable purposes  
3 under Chapter 2153, Occupations Code."

4 (b) A petition for an election to prohibit amusement  
5 redemption machines under this subchapter must have a statement  
6 substantially as follows preceding the space reserved for  
7 signatures on each page: "This petition is to require that an  
8 election be held in (name of political subdivision) to prohibit  
9 amusement redemption machines for charitable purposes authorized  
10 under Chapter 2153, Occupations Code."

11 (c) A petition is valid for purposes of Section 2153.504  
12 only if it is signed by a number of registered voters of the  
13 political subdivision that exceeds 10 percent of the number of  
14 registered voters who voted in the political subdivision in the  
15 most recent general election for state and county officers, or the  
16 number of registered voters specified in the document governing the  
17 administration of the political subdivision, whichever is less. If  
18 boundaries of the political subdivision do not coincide with  
19 boundaries of election precincts in effect for that general  
20 election, the officer verifying the petition may use a reasonable  
21 method to estimate the number of registered voters who voted in that  
22 election in the political subdivision.

23 (d) A signer must enter beside the signer's signature the  
24 date of signing the petition. A signature may not be counted if the  
25 signer fails to enter the date or if the date of signing is earlier  
26 than the 90th day before the date the petition is submitted to the  
27 governing body.

1       (e) In addition to the signature and date of signing, the  
2 petition must include each signer's:

3               (1) current voter registration number;

4               (2) printed name; and

5               (3) residence address, including zip code.

6       (f) Not later than the fifth day after the date the  
7 governing body receives a petition for an election, the governing  
8 body shall submit the petition for verification to the county clerk  
9 if the petition is applicable to a county or justice precinct or to  
10 the municipal secretary if the petition is applicable to a  
11 municipality.

12       (g) The officer to whom the petition is submitted for  
13 verification shall determine whether the petition is signed by the  
14 required number of registered voters of the political subdivision  
15 in which the election is requested.

16       (h) Not later than the 30th day after the date the petition  
17 is submitted to the officer for verification, the officer shall  
18 certify in writing to the governing body whether the petition is  
19 valid. If the officer determines that the petition is invalid, the  
20 officer shall state all reasons for the determination.

21       Sec. 2153.506. ELECTION ORDER. If the officer responsible  
22 for certifying a petition determines that a petition is valid, the  
23 governing body shall:

24               (1) order that an election be held in the appropriate  
25 political subdivision on the next uniform election day provided by  
26 Section 41.001(a), Election Code, that occurs not earlier than the  
27 45th day after the date of the officer's certification; and

1           (2) notify the comptroller by certified mail, return  
2 receipt requested, that an election has been ordered.

3           Sec. 2153.507. BALLOT PROPOSITIONS. (a) In an election to  
4 authorize amusement redemption machines under this subchapter in a  
5 political subdivision, the ballot shall be prepared to provide for  
6 voting for or against the proposition: "Authorizing the operation  
7 of amusement redemption machines for charitable purposes as  
8 authorized by Chapter 2153, Occupations Code, in (name of political  
9 subdivision)."

10           (b) In an election to prohibit amusement redemption  
11 machines under this subchapter in a political subdivision, the  
12 ballot shall be prepared to provide for voting for or against the  
13 proposition: "Prohibiting the operation of amusement redemption  
14 machines for charitable purposes as authorized by Chapter 2153,  
15 Occupations Code, in (name of political subdivision)."

16           Sec. 2153.508. EFFECT OF ELECTION. (a) The governing body  
17 of a political subdivision in which an amusement redemption machine  
18 election has been held shall not later than the 10th day after the  
19 date of the election give written notification to the comptroller  
20 of the results of the election.

21           (b) If a majority of the qualified voters voting on the  
22 question in an authorization election vote in favor of  
23 authorization, amusement redemption machines are authorized  
24 throughout the political subdivision beginning on the 10th day  
25 after the date the result of the election is officially declared,  
26 except as otherwise provided as to a part of the political  
27 subdivision for which Subsection (g) requires a contrary status.

1        (c) If a majority of the qualified voters voting on the  
2 question in a prohibitory election vote in favor of prohibition,  
3 amusement redemption machines are prohibited throughout the  
4 political subdivision beginning on the 10th day after the date the  
5 result of the election is officially declared, except as otherwise  
6 provided as to a part of the political subdivision for which  
7 Subsection (g) requires a contrary status.

8        (d) If a majority of the qualified voters voting on the  
9 question in an authorization election do not favor authorization,  
10 or if a majority of the qualified voters voting on the question in a  
11 prohibitory election do not favor prohibition, the election has no  
12 effect on the status under this subchapter of the political  
13 subdivision in which the election is held.

14        (e) If as a result of the election amusement redemption  
15 machines are authorized in the political subdivision, the governing  
16 body shall furnish the comptroller with a map prepared by the  
17 governing body indicating the boundaries of the political  
18 subdivision in which amusement redemption machines are authorized.

19        (f) In determining whether amusement redemption machines  
20 under this subchapter are authorized in an area, the rules provided  
21 by this section apply. Amusement redemption machines are  
22 authorized in an area only as the result of a successful election  
23 held under this subchapter.

24        (g) To the extent that the results of local option elections  
25 held by different types of political subdivisions conflict with  
26 regard to the same territory, the relative dates of the elections  
27 are of no consequence and the following rules apply:



1           (1) the status of an area as determined by a municipal  
2 election prevails over a contrary status as determined by a justice  
3 precinct or county election; and

4           (2) the status of an area as determined by a justice  
5 precinct election prevails over the contrary status of the area as  
6 determined by a county election.

7           (h) If two or more local option elections held at the  
8 justice precinct level apply to the same territory, the most recent  
9 election prevails.

10          (i) If a municipality has established a status by a  
11 municipal election, territory annexed to the municipality after  
12 that status is established assumes the status under this subchapter  
13 of the rest of the municipality. Territory detached from the  
14 municipality assumes the status the territory would have had if it  
15 had never been a part of the municipality. If the detached  
16 territory is added to another municipality that has established a  
17 status by a municipal election, the territory assumes the status of  
18 the municipality to which it is added.

19          (j) The addition of territory to or detachment of territory  
20 from a justice precinct does not affect the status under this  
21 subchapter of the added or detached territory.

22          SECTION 2. Section 47.02(c), Penal Code, is amended to read  
23 as follows:

24          (c) It is a defense to prosecution under this section that  
25 the actor reasonably believed that the conduct:

26               (1) was permitted under Chapter 2001, Occupations  
27 Code;

1           (2) was permitted under Chapter 2002, Occupations  
2 Code;

3           (3) consisted entirely of participation in the state  
4 lottery authorized by the State Lottery Act (Chapter 466,  
5 Government Code);

6           (4) was permitted under the Texas Racing Act (Article  
7 179e, Vernon's Texas Civil Statutes); ~~or~~

8           (5) consisted entirely of participation in a drawing  
9 for the opportunity to participate in a hunting, fishing, or other  
10 recreational event conducted by the Parks and Wildlife Department;  
11 or

12           (6) was authorized under Subchapter K, Chapter 2153,  
13 Occupations Code, or a license issued under that subchapter.

14       SECTION 3. Section 47.06(f), Penal Code, is amended to read  
15 as follows:

16       (f) It is a defense to prosecution under Subsection (a) or  
17 (c) that the person owned, manufactured, transferred, or possessed  
18 the gambling device, equipment, or paraphernalia for the sole  
19 purpose of shipping it:

20           (1) within this state to a location at which amusement  
21 redemption machines may be exhibited under a license issued under  
22 Subchapter K, Chapter 2153, Occupations Code, if the item is an  
23 amusement redemption machine as defined by that subchapter or a  
24 component part of or supply for use in an amusement redemption  
25 machine as defined by that subchapter; or

26           (2) to another jurisdiction where the possession or  
27 use of the device, equipment, or paraphernalia was legal.

SECTION 4. Section 47.09, Penal Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) It is a defense to prosecution under this chapter that the conduct:

(1) was authorized under:

(A) Chapter 2001, Occupations Code;

(B) Chapter 2002, Occupations Code; ~~or~~

(C) the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes); or

(D) Subchapter K, Chapter 2153, Occupations Code, or a license issued under that subchapter;

(2) consisted entirely of participation in the state lottery authorized by Chapter 466, Government Code; or

(3) was a necessary incident to the operation of the state lottery and was directly or indirectly authorized by:

(A) Chapter 466, Government Code;

(B) the lottery division of the Texas Lottery Commission;

(C) the Texas Lottery Commission; or

(D) the director of the lottery division of the Texas Lottery Commission.

(c) The defense provided by Subsection (a)(1)(D) does not apply to conduct committed in accordance with a license issued under Subchapter K, Chapter 2153, Occupations Code, if the actor obtained the license by false pretense, false statement, or material omission made in the license application or other manner.

1           SECTION 5. This Act does not attempt to supersede federal  
2 law or the Texas Constitution. If this Act is declared  
3 unconstitutional by a final judgment of a court with appropriate  
4 jurisdiction, this Act has no effect.

5           SECTION 6. This Act takes effect immediately if it receives  
6 a vote of two-thirds of all the members elected to each house, as  
7 provided by Section 39, Article III, Texas Constitution. If this  
8 Act does not receive the vote necessary for immediate effect, this  
9 Act takes effect September 1, 2003.