

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 9, 2003

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2440 by Flores (Relating to the imposition of a tax on a prize awarded for play of a coin-operated amusement gaming machine.), **As Introduced**

The Comptroller cannot estimate the number of machines, but there would be a positive revenue gain from the tax imposed.

The bill would add a subchapter to Chapter 2153 of the Occupations Code and add a section to Chapter 47 of the Penal Code, relating to the imposition of a tax on a prize awarded for play of a coin-operated amusement gaming machine.

The bill would define a coin-operated amusement gaming machine as any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewarded the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, with a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once, or \$5, whichever was less.

A coin-operated amusement gaming machine would not be considered as a gambling device. A machine that awarded the user noncash merchandise prizes directly from the machine, or a machine from which the opportunity to receive prizes from the machine mainly depended on a user's skill, would be excluded.

A coin-operated amusement gaming machine would be certified by the Comptroller or a competent private testing service that contracted with the Comptroller. A person could not claim a defense for an offense of gambling on the ground that a device was excluded from the definition of gaming device unless the device was certified as a coin-operated amusement gaming machine.

A tax would be imposed on each cash or cash-equivalent prize awarded from playing a coin-operated amusement gaming machine, to be collected by the operator of the machine on behalf of the Comptroller. The state sales tax rate would apply to the value of the prize.

No later than January 1, 2004, the Comptroller would establish procedures to certify coin-operated gaming amusement machines. The tax would not be imposed on the prize awarded until March 1, 2004.

This bill would take effect September 1, 2003.

For reference, the Coin Operated Amusement Machine Tax currently generates approximately \$9 million a year.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 362 Texas Lottery Commission

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