

By: Flynn

H.B. No. 75

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of amusement redemption machines at certain locations; providing criminal penalties.

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. LOCATION LICENSE FOR OPERATION OF AMUSEMENT

REDEMPTION MACHINES

Sec. 2153.501. APPLICABILITY. Unless otherwise provided, the provisions of this chapter governing licenses and registration certificates, including penalties and enforcement provisions, apply to a location license issued under this subchapter.

Sec. 2153.502. DEFINITIONS. For purposes of this subchapter:

(1) "Amusement redemption machine" means a contrivance described by Section 47.01(4)(B), Penal Code.

(2) "Operate" includes displaying, exhibiting, or placing in service.

(3) "Premises" means the area under a common roof or over a common foundation.

Sec. 2153.503. LOCATION LICENSE. (a) A person may not operate more than 10 amusement redemption machines on any premises unless the person holds a location license issued under this subchapter for the premises.

1        (b) A person must hold a location license in addition to any  
2 other license or registration certificate the person is required to  
3 hold under this chapter.

4        (c) An applicant for a location license must file with the  
5 comptroller an application that includes:

6            (1) the name and address of the applicant;

7            (2) the physical address, including the county, of the  
8 premises at which the amusement redemption machines will be  
9 operated;

10           (3) the name and address of the owner of the premises  
11 at which the amusement redemption machines will be operated;

12           (4) the name and address of the person who rents or  
13 leases the premises to the applicant, if applicable;

14           (5) the amount of rent paid or other consideration  
15 given, directly or indirectly, to the owner, lessor, or landlord of  
16 the premises, if applicable;

17           (6) the number of amusement redemption machines to be  
18 operated on the premises;

19           (7) a statement indicating whether the amusement  
20 redemption machines to be operated on the premises will be owned,  
21 leased, or rented by the applicant;

22           (8) if the amusement redemption machines will be  
23 leased or rented, the name, address, and general business license  
24 or registration certificate number of the person who owns the  
25 amusement redemption machines;

26           (9) a financial interest statement that includes the  
27 name and residence address of any person, other than a person

1 disclosed under Subdivision (8), who has a financial interest in  
2 the operation of the machines on the premises, including the  
3 nature, type, and extent of the financial interest; and

4 (10) a statement that the information contained in the  
5 application is true and correct.

6 (d) A person who submits an application for a location  
7 license consents to an inspection of the licensed premises by the  
8 comptroller or a peace officer at any time during the location's  
9 hours of operation to ensure compliance with this subchapter.

10 Sec. 2153.504. FEES. (a) The annual license fee for each  
11 location license is \$500.

12 (b) An application for a location license must be  
13 accompanied by a nonrefundable application fee in the form of a  
14 cashier's check, money order, personal check, or other method of  
15 payment authorized by the comptroller in an amount equal to the  
16 annual location license fee.

17 Sec. 2153.505. REQUIRED LOCATION LICENSE HOLDER RECORDS.  
18 (a) A location license holder shall, at all times, prominently  
19 display the holder's license at the licensed premises.

20 (b) A location license holder shall maintain, on the  
21 licensed premises, a record of each amusement redemption machine  
22 located on the premises to which the location license applies,  
23 including:

24 (1) the make, type, and serial number of the machine;  
25 (2) the date the machine was placed in operation;  
26 (3) the dates of the first and most recent  
27 registration of the machine; and

1           (4) any change in ownership of the machine.

2           (c) The location license holder must allow the comptroller  
3 or a peace officer to enter and inspect the licensed premises at any  
4 time during hours of operation to ensure compliance with this  
5 subchapter.

6           Sec. 2153.506. MANDATORY DENIAL OR REVOCATION OF LOCATION  
7 LICENSE. (a) The comptroller may not issue a location license if  
8 the comptroller finds that the license applicant or any person  
9 required to be listed on the financial interest statement under  
10 Section 2153.503(c)(9):

11           (1) is prohibited from holding a general business  
12 license under Section 2153.302; or

13           (2) has been convicted of an offense under Section  
14 47.06, Penal Code.

15           (b) The comptroller may not issue or renew a location  
16 license if the applicant fails to comply with Section 2153.505.

17           (c) The comptroller shall revoke the location license of a  
18 license holder who refuses to allow the comptroller or a peace  
19 officer to enter or inspect the licensed premises as required by  
20 this subchapter. The comptroller may not issue a location license  
21 to a person who has had a location license revoked under this  
22 subsection.

23           Sec. 2153.507. INFORMATION FROM LOCATION LICENSE  
24 APPLICATION. (a) Notwithstanding Section 2153.101 and following  
25 the issuance of a location license under this subchapter, the  
26 following information in the location license application is a  
27 public record and must be posted on the comptroller's Internet

1 website not later than the 10th business day after the date the  
2 location license is issued:

- 3 (1) the location license number;  
4 (2) the name of the location license holder;  
5 (3) the physical address, including the county, of the  
6 premises designated in the location license;  
7 (4) the names of any person included in the financial  
8 interest statement required under Section 2153.503(c)(9); and  
9 (5) the number of amusement redemption machines  
10 operated on the licensed premises.

11 (b) The comptroller shall provide a method to allow a  
12 visitor to the comptroller's Internet website to retrieve by county  
13 or municipality the license information posted under Subsection  
14 (a).

15 Sec. 2153.508. CRIMINAL PENALTY. (a) A person commits an  
16 offense if the person:

- 17 (1) knowingly operates or allows the operation of more  
18 than 10 amusement redemption machines on premises for which a  
19 location license is not in effect; or  
20 (2) fails to display a location license or maintain  
21 the records as required by Section 2153.505.

22 (b) An offense under this section is a Class A misdemeanor,  
23 except that an offense under this section is a state jail felony if  
24 it is shown on the trial of the offense that at the time the offense  
25 was committed the person possessed on the premises one or more  
26 devices in violation of Section 47.06, Penal Code.

27 (c) It is presumed that a person intended to commit an

1 offense under this section if:

2 (1) more than 10 amusement redemption machines are  
3 operated by the person on premises for which a location license is  
4 not prominently displayed;

5 (2) an amusement redemption machine operated on the  
6 premises is not included in the records maintained under Section  
7 2153.505(b); or

8 (3) the records required under Section 2153.505(b) are  
9 not available for inspection by the comptroller or a peace officer  
10 during the hours of operation of the premises.

11 SECTION 2. Section 2153.153, Occupations Code, is amended  
12 by adding Subsection (a-1) to read as follows:

13 (a-1) In addition to the information prescribed by  
14 Subsection (a), an application for a general business, import, or  
15 repair license must include a statement indicating whether a  
16 machine associated with the application is an amusement redemption  
17 machine.

18 SECTION 3. This Act takes effect September 1, 2009.