

By: Smith of Harris

H.B. No. 4322

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the imposition of county or municipal occupation taxes  
3 on certain coin-operated amusement gaming devices.

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

5 SECTION 1. Section 2153.002, Occupations Code, is amended  
6 by amending Subdivision (1) and adding Subdivision (1-a) to read as  
7 follows:

8 (1) "Coin-operated amusement gaming device" means a  
9 device described by Section 47.01(4), Penal Code, including a  
10 device excluded under Section 47.01(4)(B), Penal Code, that is  
11 operated through the use of a coin or other United States currency,  
12 metal slug, token, electronic card, or check. The term does not  
13 include:

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

17 (B) a machine from which the opportunity to  
18 receive a prize or a representation of value redeemable for a prize  
19 varies depending on the user's ability to throw, roll, flip, toss,  
20 hit, or drop a ball or other physical object into the machine or a  
21 part of the machine, including basketball, skeeball, golf, bowling,  
22 pusher, or similar machines.

23 (1-a) "Coin-operated machine" means any kind of  
24 machine or device, other than a coin-operated amusement gaming

1 device, that is operated by or with a coin or other United States  
2 currency, metal slug, token, electronic card, or check, including a  
3 music or skill or pleasure coin-operated machine.

4 SECTION 2. Sections 2153.451 and 2153.453, Occupations  
5 Code, are amended to read as follows:

6 Sec. 2153.451. IMPOSITION OF OCCUPATION TAX AUTHORIZED.

7 (a) A county or municipality may impose an occupation tax on a  
8 coin-operated machine or coin-operated amusement gaming device in  
9 this state.

10 (b) The rate of the tax on a coin-operated machine may not  
11 exceed one-fourth of the rate of the tax imposed under Section  
12 2153.401.

13 (c) The rate of the tax on a coin-operated amusement gaming  
14 device may not exceed the rate of the tax imposed under Section  
15 2153.401.

16 Sec. 2153.453. SEALING AUTHORIZED; RELEASE FEE. (a) A  
17 county or municipality that imposes an occupation tax on a  
18 coin-operated machine or coin-operated amusement gaming device  
19 may~~+~~

20 [~~(1)~~] seal the [a coin-operated] machine or device if  
21 the tax imposed is not paid.

22 (b) A county or municipality that seals a coin-operated  
23 machine or coin-operated amusement gaming device may [~~+~~ and

24 [~~(2)~~] charge a fee [~~of not more than \$5~~] for the release  
25 of the [a] sealed [coin-operated] machine or device in an amount  
26 that does not exceed:

27 (1) for a coin-operated machine that is operated

1 without a current permit issued by the county or municipality:

2 (A) \$60 on the first inspection of a location in a  
3 calendar year;

4 (B) \$120 on the second inspection of a location  
5 in the same calendar year as the first inspection; or

6 (C) \$500 on any additional inspection of the same  
7 location in the same calendar year as the first inspection; or

8 (2) for a coin-operated amusement gaming device that  
9 is operated without a current permit issued by the county or  
10 municipality:

11 (A) \$120 on the first inspection of a location in  
12 a calendar year;

13 (B) \$240 on the second inspection of a location  
14 in the same calendar year as the first inspection; or

15 (C) \$2,500 on any additional inspection of a  
16 location in the same calendar year as the first inspection.

17 SECTION 3. Subchapter J, Chapter 2153, Occupations Code, is  
18 amended by adding Section 2153.454 to read as follows:

19 Sec. 2153.454. CONFISCATION AUTHORIZED. A peace officer  
20 who determines that a coin-operated amusement gaming device is  
21 exhibited or displayed on at least three occasions in a calendar  
22 year when the occupation tax imposed by a municipality or county  
23 under this subchapter has not been paid may confiscate the device  
24 for the county or municipal taxing authority.

25 SECTION 4. Section 2153.403, Occupations Code, is repealed.

26 SECTION 5. The change in law made by this Act does not  
27 affect tax liability accruing before the effective date of this

1 Act. That liability continues in effect as if this Act had not been  
2 enacted, and the former law is continued in effect for the  
3 collection of taxes due and for civil and criminal enforcement of  
4 those taxes.

5 SECTION 6. This Act takes effect September 1, 2009.