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S.B. No. 309

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of amusement redemption machines at certain locations; providing 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) "Operator" means a person who owns or, if the premises are rented or leased, the person who rents or leases the premises on which more than 10 amusement redemption machines are operated.

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

1 Sec. 2153.503. LOCATION LICENSE. (a) No more than 10
2 amusement redemption machines may be operated on a particular
3 premises unless the operator holds a location license issued under
4 this subchapter for the premises.

5 (b) Notwithstanding Section 2153.008, an operator must hold
6 a location license in addition to any other license or registration
7 certificate the operator is required to hold under this chapter.

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

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

11 (2) the physical address, including the county, of the
12 premises at which the amusement redemption machines will be
13 operated;

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

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

18 (5) the amount of rent paid or other consideration
19 given, directly or indirectly, to the owner, lessor, or landlord of
20 the premises, if applicable;

21 (6) the number of amusement redemption machines to be
22 operated on the premises;

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

26 (8) if the amusement redemption machines will be
27 leased or rented, the name, address, and general business license

1 number of the person who owns the amusement redemption machines;

2 (9) a written certification that the amusement
3 redemption machines to be operated on the premises will be operated
4 in accordance with Section 47.01(4)(B), Penal Code;

5 (10) a financial interest statement that includes the
6 name and residence address of any person, other than a person
7 disclosed under Subdivision (8), who has a financial interest in
8 the operation of the machines on the premises, including the
9 nature, type, and extent of the financial interest; and

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

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

16 (e) The comptroller may not issue a location license to an
17 applicant unless the applicant certifies in writing that the
18 amusement redemption machines to be operated on the premises will
19 be operated in accordance with Section 47.01(4)(B), Penal Code.
20 The issuance of a location license by the comptroller does not
21 constitute an official opinion or judgment by the comptroller that
22 an amusement redemption machine operated on the premises of a
23 location license holder is being operated in accordance with
24 Section 47.01(4)(B), Penal Code.

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

27 (b) An application for a location license must be

1 accompanied by a nonrefundable application fee in the form of a
2 cashier's check, money order, personal check, or other method of
3 payment authorized by the comptroller in an amount equal to the
4 annual location license fee.

5 Sec. 2153.505. REQUIRED LOCATION FOR LICENSE HOLDER
6 RECORDS. (a) A location license holder shall, at all times,
7 prominently display the holder's license at the licensed premises.

8 (b) A location license holder shall maintain, on the
9 licensed premises, a record of each amusement redemption machine
10 located on the premises to which the location license applies,
11 including:

12 (1) the make, type, and serial number of the machine;

13 (2) the date the machine was placed in operation on the
14 premises to which the location license applies;

15 (3) the date of the most recent registration of the
16 machine; and

17 (4) if the machine is owned by the license holder, any
18 change in ownership of the machine.

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

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

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

3 (2) has been convicted of an offense under Section
4 47.06, Penal Code.

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

7 (c) The comptroller shall revoke the location license of a
8 license holder who refuses to allow the comptroller or a peace
9 officer to enter or inspect the licensed premises as required by
10 this subchapter. The comptroller may not issue a location license
11 to a person who has had a location license revoked under this
12 subsection.

13 Sec. 2153.507. INFORMATION FROM LOCATION LICENSE
14 APPLICATION. (a) Notwithstanding Section 2153.101 and following
15 the issuance of a location license under this subchapter, the
16 following information in the location license application is a
17 public record and must be posted on the comptroller's Internet
18 website not later than the 10th business day after the date the
19 location license is issued:

20 (1) the location license number;

21 (2) the name of the location license holder;

22 (3) the physical address, including the county, of the
23 premises designated in the location license;

24 (4) the names of any person included in the financial
25 interest statement required under Section 2153.503(c)(10); and

26 (5) the number of amusement redemption machines
27 operated on the licensed premises.

1 (b) The comptroller shall provide a method to allow a
2 visitor to the comptroller's Internet website to retrieve by county
3 or municipality the license information posted under Subsection
4 (a).

5 Sec. 2153.508. CIVIL PENALTY. (a) A person commits a
6 violation if the person:

7 (1) knowingly operates or allows the operation of more
8 than 10 amusement redemption machines on premises for which a
9 location license is not in effect; or

10 (2) fails to display a location license or maintain
11 the records as required by Section 2153.505.

12 (b) The comptroller may assess a civil penalty against a
13 person who violates this subchapter. The amount of the penalty for
14 each unregistered amusement redemption machine in excess of 10
15 unregistered machines in violation of this subchapter is as
16 follows:

17 (1) for a first violation, \$500 for each unregistered
18 machine; and

19 (2) for a second or subsequent violation, \$1,000 for
20 each unregistered machine.

21 (c) It is presumed that an operator intended to commit a
22 violation under this section if:

23 (1) more than 10 amusement redemption machines are
24 operated on premises for which a location license is not
25 prominently displayed;

26 (2) an amusement redemption machine operated on the
27 premises is not included in the records maintained under Section

1 2153.505(b); or

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

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

7 (a-1) In addition to the information prescribed by
8 Subsection (a), an application for a general business, import, or
9 repair license must include a statement indicating whether a
10 machine associated with the application is an amusement redemption
11 machine.

12 SECTION 3. Section 47.01, Penal Code, is amended by adding
13 Subdivision (4-a) to read as follows:

14 (4-a) "Device" or "contrivance" means all or part of
15 an electronic, electromechanical, or mechanical contrivance,
16 machine, or apparatus.

17 SECTION 4. This Act takes effect September 1, 2009.