

1-1 By: Jackson, Carona S.B. No. 309
1-2 (In the Senate - Filed November 21, 2008; February 11, 2009,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 13, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 13, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 309 By: Jackson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the licensing and regulation of amusement redemption
1-11 machines at certain locations; providing criminal penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 2153, Occupations Code, is amended by
1-14 adding Subchapter K to read as follows:

1-15 SUBCHAPTER K. LOCATION LICENSE FOR OPERATION OF AMUSEMENT
1-16 REDEMPTION MACHINES

1-17 Sec. 2153.501. APPLICABILITY. Unless otherwise provided,
1-18 the provisions of this chapter governing licenses and registration
1-19 certificates, including penalties and enforcement provisions,
1-20 apply to a location license issued under this subchapter.

1-21 Sec. 2153.502. DEFINITIONS. For purposes of this
1-22 subchapter:

1-23 (1) "Amusement redemption machine" means a
1-24 contrivance described by Section 47.01(4)(B), Penal Code.

1-25 (2) "Operate" includes displaying, exhibiting, or
1-26 placing in service.

1-27 (3) "Operator" means a person who owns or, if the
1-28 premises are rented or leased, the person who rents or leases the
1-29 premises on which more than 10 amusement redemption machines are
1-30 operated.

1-31 (4) "Premises" means the area under a common roof or
1-32 over a common foundation.

1-33 Sec. 2153.503. LOCATION LICENSE. (a) No more than 10
1-34 amusement redemption machines may be operated on a particular
1-35 premises unless the operator holds a location license issued under
1-36 this subchapter for the premises.

1-37 (b) Notwithstanding Section 2153.008, an operator must hold
1-38 a location license in addition to any other license or registration
1-39 certificate the operator is required to hold under this chapter.

1-40 (c) An applicant for a location license must file with the
1-41 comptroller an application that includes:

1-42 (1) the name and address of the applicant;

1-43 (2) the physical address, including the county, of the
1-44 premises at which the amusement redemption machines will be
1-45 operated;

1-46 (3) the name and address of the owner of the premises
1-47 at which the amusement redemption machines will be operated;

1-48 (4) the name and address of the person who rents or
1-49 leases the premises to the applicant, if applicable;

1-50 (5) the amount of rent paid or other consideration
1-51 given, directly or indirectly, to the owner, lessor, or landlord of
1-52 the premises, if applicable;

1-53 (6) the number of amusement redemption machines to be
1-54 operated on the premises;

1-55 (7) a statement indicating whether the amusement
1-56 redemption machines to be operated on the premises will be owned,
1-57 leased, or rented by the applicant;

1-58 (8) if the amusement redemption machines will be
1-59 leased or rented, the name, address, and general business license
1-60 number of the person who owns the amusement redemption machines;

1-61 (9) a written certification that the amusement
1-62 redemption machines to be operated on the premises will be operated
1-63 in accordance with Section 47.01(4)(B), Penal Code;

2-1 (10) a financial interest statement that includes the
 2-2 name and residence address of any person, other than a person
 2-3 disclosed under Subdivision (8), who has a financial interest in
 2-4 the operation of the machines on the premises, including the
 2-5 nature, type, and extent of the financial interest; and

2-6 (11) a statement that the information contained in the
 2-7 application is true and correct.

2-8 (d) A person who submits an application for a location
 2-9 license consents to an inspection of the licensed premises by the
 2-10 comptroller or a peace officer at any time during the location's
 2-11 hours of operation to ensure compliance with this subchapter.

2-12 (e) The comptroller may not issue a location license to an
 2-13 applicant unless the applicant certifies in writing that the
 2-14 amusement redemption machines to be operated on the premises will
 2-15 be operated in accordance with Section 47.01(4)(B), Penal Code.
 2-16 The issuance of a location license by the comptroller does not
 2-17 constitute an official opinion or judgment by the comptroller that
 2-18 an amusement redemption machine operated on the premises of a
 2-19 location license holder is being operated in accordance with
 2-20 Section 47.01(4)(B), Penal Code.

2-21 Sec. 2153.504. FEES. (a) The annual license fee for each
 2-22 location license is \$500.

2-23 (b) An application for a location license must be
 2-24 accompanied by a nonrefundable application fee in the form of a
 2-25 cashier's check, money order, personal check, or other method of
 2-26 payment authorized by the comptroller in an amount equal to the
 2-27 annual location license fee.

2-28 Sec. 2153.505. REQUIRED LOCATION FOR LICENSE HOLDER
 2-29 RECORDS. (a) A location license holder shall, at all times,
 2-30 prominently display the holder's license at the licensed premises.

2-31 (b) A location license holder shall maintain, on the
 2-32 licensed premises, a record of each amusement redemption machine
 2-33 located on the premises to which the location license applies,
 2-34 including:

2-35 (1) the make, type, and serial number of the machine;
 2-36 (2) the date the machine was placed in operation on the
 2-37 premises to which the location license applies;

2-38 (3) the date of the most recent registration of the
 2-39 machine; and

2-40 (4) if the machine is owned by the license holder, any
 2-41 change in ownership of the machine.

2-42 (c) The location license holder must allow the comptroller
 2-43 or a peace officer to enter and inspect the licensed premises at any
 2-44 time during hours of operation to ensure compliance with this
 2-45 subchapter.

2-46 Sec. 2153.506. MANDATORY DENIAL OR REVOCATION OF LOCATION
 2-47 LICENSE. (a) The comptroller may not issue a location license if
 2-48 the comptroller finds that the license applicant or any person
 2-49 required to be listed on the financial interest statement under
 2-50 Section 2153.503(c)(10):

2-51 (1) is prohibited from holding a general business
 2-52 license under Section 2153.302; or

2-53 (2) has been convicted of an offense under Section
 2-54 47.06, Penal Code.

2-55 (b) The comptroller may not issue or renew a location
 2-56 license if the applicant fails to comply with Section 2153.505.

2-57 (c) The comptroller shall revoke the location license of a
 2-58 license holder who refuses to allow the comptroller or a peace
 2-59 officer to enter or inspect the licensed premises as required by
 2-60 this subchapter. The comptroller may not issue a location license
 2-61 to a person who has had a location license revoked under this
 2-62 subsection.

2-63 Sec. 2153.507. INFORMATION FROM LOCATION LICENSE
 2-64 APPLICATION. (a) Notwithstanding Section 2153.101 and following
 2-65 the issuance of a location license under this subchapter, the
 2-66 following information in the location license application is a
 2-67 public record and must be posted on the comptroller's Internet
 2-68 website not later than the 10th business day after the date the
 2-69 location license is issued:

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

3-9 (b) The comptroller shall provide a method to allow a
 3-10 visitor to the comptroller's Internet website to retrieve by county
 3-11 or municipality the license information posted under Subsection
 3-12 (a).

3-13 Sec. 2153.508. CRIMINAL PENALTY. (a) A person commits an
 3-14 offense if the person:

3-15 (1) knowingly operates or allows the operation of more
 3-16 than 10 amusement redemption machines on premises for which a
 3-17 location license is not in effect; or

3-18 (2) fails to display a location license or maintain
 3-19 the records as required by Section 2153.505.

3-20 (b) An offense under this section is a Class A misdemeanor,
 3-21 except that a second or subsequent offense under this section is a
 3-22 state jail felony.

3-23 (c) It is presumed that an operator intended to commit an
 3-24 offense under this section if:

3-25 (1) more than 10 amusement redemption machines are
 3-26 operated on premises for which a location license is not
 3-27 prominently displayed;

3-28 (2) an amusement redemption machine operated on the
 3-29 premises is not included in the records maintained under Section
 3-30 2153.505(b); or

3-31 (3) the records required under Section 2153.505(b) are
 3-32 not available for inspection by the comptroller or a peace officer
 3-33 during the hours of operation of the premises.

3-34 SECTION 2. Section 2153.153, Occupations Code, is amended
 3-35 by adding Subsection (a-1) to read as follows:

3-36 (a-1) In addition to the information prescribed by
 3-37 Subsection (a), an application for a general business, import, or
 3-38 repair license must include a statement indicating whether a
 3-39 machine associated with the application is an amusement redemption
 3-40 machine.

3-41 SECTION 3. This Act takes effect September 1, 2009.

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