

By: Walle

H.B. No. 1154

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the assessment of a civil penalty against owners and
3 operators of coin-operated machines who commit certain gambling
4 offenses.

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

6 SECTION 1. Section 2153.354, Occupations Code, is amended
7 by amending Subsection (a) and adding Subsection (e) to read as
8 follows:

9 (a) The comptroller may assess a penalty of not less than
10 \$50 or more than \$2,000 against:

11 (1) an owner who permits a coin-operated machine under
12 the owner's control to be operated, exhibited, or displayed in this
13 state without a tax permit as required by Section 2153.406; ~~or~~

14 (2) a person who:

15 (A) exhibits or displays a coin-operated machine
16 in this state without a tax permit as required by Section 2153.406;

17 (B) exhibits or displays a coin-operated machine
18 that is not registered;

19 (C) does not maintain the records required under
20 this chapter;

21 (D) refuses or fails to make records available
22 for inspection on request by the comptroller or an authorized
23 representative of the comptroller;

24 (E) uses an artful device or deceptive practice

1 to conceal a violation of this chapter;

2 (F) misleads the comptroller or an authorized
3 representative of the comptroller in connection with the
4 enforcement of this chapter; or

5 (G) violates this chapter or a rule adopted under
6 this chapter; or

7 (3) an owner or operator who is convicted of an offense
8 under Section 47.04 or 47.06, Penal Code, related to owning or
9 operating a coin-operated machine.

10 (e) In a suit filed under Subsection (c), the comptroller or
11 attorney general may recover the reasonable expenses incurred in
12 obtaining the penalty, including investigation and court costs,
13 reasonable attorney's fees, witness fees, and other expenses.

14 SECTION 2. Subchapter J, Chapter 2153, Occupations Code, is
15 amended by adding Section 2153.454 to read as follows:

16 Sec. 2153.454. CIVIL PENALTY. (a) A county or municipality
17 may assess a civil penalty against an owner or operator who is
18 convicted of an offense under Section 47.04 or 47.06, Penal Code,
19 related to owning or operating a coin-operated machine.

20 (b) The county or municipality may assess a penalty under
21 this section for each day a violation occurs.

22 (c) The amount of the civil penalty assessed under
23 Subsection (a) shall be based on:

24 (1) the seriousness of the violation;

25 (2) the history of previous violations;

26 (3) the amount necessary to deter a future violation;

27 and

1 (4) any other matter that justice may require.

2 (d) The municipal or county attorney may sue to collect a
3 civil penalty under this section. In the suit, the attorney may
4 recover, on behalf of the municipality or county, the reasonable
5 expenses incurred in obtaining the penalty, including
6 investigation and court costs, reasonable attorney's fees, witness
7 fees, and other expenses.

8 (e) A person may request a hearing in accordance with the
9 applicable municipal or county hearing procedures if a civil
10 penalty is assessed against the person under this section.

11 SECTION 3. The change in law made by this Act applies only
12 to an offense committed on or after the effective date of this Act.
13 An offense committed before the effective date of this Act is
14 governed by the law in effect at the time the offense was committed,
15 and the former law is continued in effect for that purpose. For
16 purposes of this section, an offense was committed before the
17 effective date of this Act if any element of the offense was
18 committed before that date.

19 SECTION 4. This Act takes effect September 1, 2011.