

BILL ANALYSIS

H.B. 2123
By: Guillen
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that some amusement redemption machine operators have set up their machines to provide cash prizes in violation of the law. These parties observe that in order to circumvent undercover investigations that generally have allowed law enforcement agencies to shut down such illegal operations, operators have changed their business model by restricting access to allow only members or known referrals. H.B. 2123 seeks to promote public health, safety, and welfare by providing the commissioners court in a lesser populated county the necessary authority to regulate game rooms.

H.B. 2123 amends current law relating to the regulation of game rooms in certain counties; providing penalties; authorizing a fee.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2123 amends the Local Government Code to authorize the commissioners court of a county with a population of less than 25,000 that borders the Gulf of Mexico and is adjacent to two or more counties each with a population of more than 400,000, to regulate the operation of game rooms. The bill authorizes the commissioners court to restrict the location of game rooms to specified areas of the county, including the unincorporated area of the county; prohibit the location of a game room within the distance prescribed by the commissioners court of a school, regular place of religious worship, residential neighborhood, or other specified land use the commissioners court finds inconsistent with the operation of a game room; or restrict the number of game rooms that may operate in a specified area of the county.

H.B. 2123 authorizes a county to require the owner or operator of a game room to obtain a license or permit or renew a license or permit on a periodic basis to operate a game room in the county. The bill requires an application for a license or permit to be made in accordance with regulations adopted by the county and authorizes such regulations to provide for the denial, suspension, or revocation of a license or permit. The bill establishes that a district court has jurisdiction of a suit that arises from a county's denial, suspension, or revocation of a license or other permit. The bill authorizes the county to impose a fee on an applicant for a license or permit or for the renewal of the license or permit and requires the fee to be based on the cost of processing the application and investigating the applicant.

H.B. 2123 authorizes a county to inspect any business that contains one or more amusement redemption machines to determine whether the business is in compliance with the bill's provisions and regulations adopted under the bill's provisions.

H.B. 2123 authorizes the county to sue in district court for an injunction to prohibit the violation or threatened violation of the bill's provisions or a game room regulation adopted by the commissioners court. The bill establishes that a person who violates the bill's provisions or such a regulation is liable to the county for a civil penalty of not more than \$10,000 for each violation and specifies that each day a violation continues is considered a separate violation for purposes of assessing the civil penalty. The bill authorizes the county to bring suit in district court to recover the civil penalty and entitles the county to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, including reasonable attorney's fees, court costs, and investigatory costs. The bill makes it a Class A misdemeanor offense to intentionally or knowingly operate a game room in violation of a regulation adopted under the bill's provisions. The bill specifies that a person who is subject to prosecution for such an offense and any other law may be prosecuted under either or both laws.

H.B. 2123 establishes that authority under the bill's provisions is cumulative of other authority that a county has to regulate game rooms and does not limit that authority. The bill's provisions do not legalize any activity prohibited under the Penal Code or other state law.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2013.