

SENATE AMENDMENTS

2nd Printing

By: Guillen

H.B. No. 2123

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of game rooms in certain counties;
providing penalties; authorizing a fee.

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

SECTION 1. Chapter 234, Local Government Code, is amended
by adding Subchapter E to read as follows:

SUBCHAPTER E. GAME ROOMS

Sec. 234.131. DEFINITIONS. In this subchapter:

(1) "Amusement redemption machine" means a recreational machine that provides a user of the machine with an opportunity to receive something of value, other than a right of replay on the machine, based solely or partially on chance and that accumulates credits or the equivalent of credits when the machine:

(A) displays a winning configuration of like symbols randomly selected by the machine;

(B) matches a winning combination of symbols or numbers to symbols or numbers randomly selected by the machine;

(C) displays a winning combination of cards that is valued in a traditional hierarchy for a poker card game; or

(D) displays a winning combination of cards and points assigned in a traditional blackjack card game.

(2) "Game room" means a for-profit business located in a building or place that contains five or more amusement redemption machines.

1 (3) "Game room owner" means a person who:

2 (A) has an ownership interest in, or receives the
3 profits from, a game room or an amusement redemption machine
4 located in a game room;

5 (B) is a partner, director, or officer of a
6 business, company, or corporation that has an ownership interest in
7 a game room or an amusement redemption machine located in a game
8 room;

9 (C) is a shareholder that holds more than 50
10 percent of the outstanding shares of a business, company, or
11 corporation that has an ownership interest in a game room or an
12 amusement redemption machine located in a game room;

13 (D) has been issued by the county clerk an
14 assumed name certificate for a business that owns a game room or an
15 amusement redemption machine located in a game room;

16 (E) signs a lease for a game room;

17 (F) opens an account for utilities for a game
18 room;

19 (G) receives a certificate of occupancy or
20 certificate of compliance for a game room;

21 (H) pays for advertising for a game room; or

22 (I) signs an alarm permit for a game room.

23 (4) "Operator" means an individual who:

24 (A) operates a cash register, cash drawer, or
25 other depository on the premises of a game room or of a business
26 where the money earned or the records of credit card transactions or
27 other credit transactions generated in any manner by the operation

1 of a game room or activities conducted in a game room are kept;

2 (B) displays, delivers, or provides to, or takes
3 orders from, a customer of a game room for merchandise, goods,
4 entertainment, or other services offered on the premises of a game
5 room;

6 (C) acts as a door attendant to regulate entry of
7 customers or other persons into a game room; or

8 (D) supervises or manages other persons at a game
9 room in the performance of an activity listed in this subdivision.

10 Sec. 234.132. APPLICABILITY. This subchapter applies only
11 to a county with a population of less than 25,000 that borders the
12 Gulf of Mexico and is adjacent to two or more counties each with a
13 population of more than 400,000.

14 Sec. 234.133. AUTHORITY TO REGULATE. To promote the public
15 health, safety, and welfare, the commissioners court of a county
16 may regulate the operation of game rooms and may:

17 (1) restrict the location of game rooms to specified
18 areas of the county, including the unincorporated area of the
19 county;

20 (2) prohibit the location of a game room within the
21 distance prescribed by the commissioners court of a school, regular
22 place of religious worship, residential neighborhood, or other
23 specified land use the commissioners court finds inconsistent with
24 the operation of a game room; or

25 (3) restrict the number of game rooms that may operate
26 in a specified area of the county.

27 Sec. 234.134. LICENSES OR PERMITS. (a) A county may

1 require that an owner or operator of a game room obtain a license or
2 permit or renew a license or permit on a periodic basis to operate a
3 game room in the county. An application for a license or permit
4 must be made in accordance with regulations adopted by the county.

5 (b) Regulations adopted under this section may provide for
6 the denial, suspension, or revocation of a license or permit.

7 (c) A district court has jurisdiction of a suit that arises
8 from the denial, suspension, or revocation of a license or other
9 permit by a county.

10 Sec. 234.135. FEES. A county may impose a fee on an
11 applicant for a license or permit or for the renewal of the license
12 or permit required under this subchapter. The fee must be based on
13 the cost of processing the application and investigating the
14 applicant.

15 Sec. 234.136. INSPECTION. A county may inspect any
16 business that contains one or more amusement redemption machines to
17 determine whether the business is in compliance with this
18 subchapter or regulations adopted under this subchapter.

19 Sec. 234.137. INJUNCTION; CIVIL PENALTY. (a) A county may
20 sue in district court for an injunction to prohibit the violation or
21 threatened violation of a regulation adopted under Section 234.133.

22 (b) A person who violates a regulation adopted under Section
23 234.133 is liable to the county for a civil penalty of not more than
24 \$10,000 for each violation. Each day a violation continues is
25 considered a separate violation for purposes of assessing the civil
26 penalty under this subsection. A county may bring suit in district
27 court to recover a civil penalty authorized by this subsection.

1 (c) The county is entitled to recover reasonable expenses
2 incurred in obtaining injunctive relief, civil penalties, or both,
3 under this section, including reasonable attorney's fees, court
4 costs, and investigatory costs.

5 Sec. 234.138. CRIMINAL PENALTY. (a) A person commits an
6 offense if the person intentionally or knowingly operates a game
7 room in violation of a regulation adopted under Section 234.133.

8 (b) An offense under this section is a Class A misdemeanor.

9 Sec. 234.139. CUMULATIVE EFFECT. Authority under this
10 subchapter is cumulative of other authority that a county has to
11 regulate game rooms and does not limit that authority.

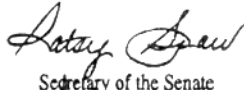
12 Sec. 234.140. EFFECT ON OTHER LAWS. (a) This subchapter
13 does not legalize any activity prohibited under the Penal Code or
14 other state law.

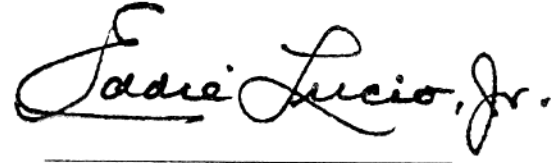
15 (b) A person who is subject to prosecution under Section
16 234.138 and any other law may be prosecuted under either or both
17 laws.

18 SECTION 2. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2013.

ADOPTED

MAY 21 2013


Secretary of the Senate



FLOOR AMENDMENT NO. _____

BY: _____

1 Amend H.B. No. 2123 (Senate Committee Printing) by striking
2 all below the enacting clause and substituting the following:

3 SECTION 1. Chapter 234, Local Government Code, is amended
4 by adding Subchapter E to read as follows:

5 SUBCHAPTER E. GAME ROOMS

6 Sec. 234.131. DEFINITIONS. In this subchapter:

7 (1) "Amusement redemption machine" means any
8 electronic, electromechanical, or mechanical contrivance designed,
9 made, and adopted for bona fide amusement purposes that rewards the
10 player exclusively with noncash merchandise, prizes, toys, or
11 novelties, or a representation of value redeemable for those items,
12 with a wholesale value available from a single play of the game or
13 device in an amount not more than 10 times the amount charged to
14 play the game or device once or \$5, whichever amount is less.

15 (2) "Game room" means a for-profit business located in
16 a building or place that contains six or more amusement redemption
17 machines.

18 (3) "Game room owner" means a person who:

19 (A) has an ownership interest in, or receives the
20 profits from, a game room or an amusement redemption machine
21 located in a game room;

22 (B) is a partner, director, or officer of a
23 business, including a company or corporation, that has an ownership
24 interest in a game room or in an amusement redemption machine
25 located in a game room;

26 (C) is a shareholder that holds more than 10
27 percent of the outstanding shares of a business, including a
28 company or corporation, that has an ownership interest in a game
29 room or in an amusement redemption machine located in a game room;

1 (D) has been issued by the county clerk an
2 assumed name certificate for a business that owns a game room or an
3 amusement redemption machine located in a game room;

4 (E) signs a lease for a game room;

5 (F) opens an account for utilities for a game
6 room;

7 (G) receives a certificate of occupancy or
8 certificate of compliance for a game room;

9 (H) pays for advertising for a game room; or

10 (I) signs an alarm permit for a game room.

11 (4) "Operator" means an individual who:

12 (A) operates a cash register, cash drawer, or
13 other depository on the premises of a game room or of a business
14 where the money earned or the records of credit card transactions or
15 other credit transactions generated in any manner by the operation
16 of a game room or activities conducted in a game room are kept;

17 (B) displays, delivers, or provides to a customer
18 of a game room merchandise, goods, entertainment, or other services
19 offered on the premises of a game room;

20 (C) takes orders from a customer of a game room
21 for merchandise, goods, entertainment, or other services offered on
22 the premises of a game room;

23 (D) acts as a door attendant to regulate entry of
24 customers or other persons into a game room; or

25 (E) supervises or manages other persons at a game
26 room in the performance of an activity listed in this subdivision.

27 Sec. 234.132. APPLICABILITY. This subchapter applies only
28 to a county with a population of less than 25,000 that is adjacent
29 to the Gulf of Mexico and is within 50 miles of an international
30 border.

31 Sec. 234.133. AUTHORITY TO REGULATE. To promote the public

1 health, safety, and welfare, the commissioners court of a county
2 may regulate the operation of game rooms and may:

3 (1) restrict the location of game rooms to specified
4 areas of the county, including the unincorporated area of the
5 county;

6 (2) prohibit a game room location within a certain
7 distance, prescribed by the commissioners court, of a school,
8 regular place of religious worship, or residential neighborhood; or

9 (3) restrict the number of game rooms that may operate
10 in a specified area of the county.

11 Sec. 234.134. LICENSES OR PERMITS. (a) A county may
12 require that an owner or operator of a game room obtain a license or
13 permit or renew a license or permit on a periodic basis to own or
14 operate a game room in the county. An application for a license or
15 permit must be made in accordance with regulations adopted by the
16 county.

17 (b) Regulations adopted under this section may provide for
18 the denial, suspension, or revocation of a license or permit.

19 (c) A district court has jurisdiction of a suit that arises
20 from the denial, suspension, or revocation of a license or other
21 permit by a county.

22 Sec. 234.135. FEES. A county may impose a fee not to exceed
23 \$1,000 on an applicant for a license or permit or for the renewal of
24 the license or permit required under this subchapter. The fee must
25 be based on the cost of processing the application and
26 investigating the applicant.

27 Sec. 234.136. INSPECTION. (a) A peace officer or county
28 employee may inspect a business in the county to determine the
29 number of amusement redemption machines subject to regulation under
30 this subchapter that are located on the premises of the business.

31 (b) A peace officer or county employee may inspect any

1 business in which six or more amusement redemption machines are
2 located to determine whether the business is in compliance with
3 this subchapter or regulations adopted under this subchapter.

4 (c) A person violates this subchapter if the person fails to
5 allow a peace officer or county employee to conduct an inspection
6 under this section.

7 Sec. 234.137. INJUNCTION; CIVIL PENALTY. (a) A county may
8 sue in district court for an injunction to prohibit the violation or
9 threatened violation of this subchapter or a regulation adopted
10 under Section 234.133.

11 (b) A person who violates this subchapter or a regulation
12 adopted under Section 234.133 is liable to the county for a civil
13 penalty of not more than \$10,000 for each violation. Each day a
14 violation continues is considered a separate violation for purposes
15 of assessing the civil penalty under this subsection. A county may
16 bring suit in district court to recover a civil penalty authorized
17 by this subsection.

18 (c) The county is entitled to recover reasonable expenses
19 incurred in obtaining injunctive relief, civil penalties, or both,
20 under this section, including reasonable attorney's fees, court
21 costs, and investigatory costs.

22 Sec. 234.138. CRIMINAL PENALTY. (a) A person commits an
23 offense if the person intentionally or knowingly operates a game
24 room in violation of a regulation adopted under Section 234.133.

25 (b) An offense under this section is a Class A misdemeanor.

26 Sec. 234.139. CUMULATIVE EFFECT. Authority under this
27 subchapter is cumulative of other authority that a county has to
28 regulate game rooms and does not limit that authority.

29 Sec. 234.140. EFFECT ON OTHER LAWS. (a) This subchapter
30 does not legalize any activity prohibited under the Penal Code or
31 other state law.

1 (b) A person's compliance with this subchapter, including
2 operating a game room under a license or permit issued under this
3 chapter, is not a defense to prosecution for an offense under
4 Chapter 47, Penal Code.

5 (c) A person who is subject to prosecution under Section
6 234.138 and any other law may be prosecuted under either or both
7 laws.

8 SECTION 2. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2013.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 22, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2123 by Guillen (Relating to the regulation of game rooms in certain counties; providing penalties; authorizing a fee.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: UP, KKR, RB, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 16, 2013

TO: Honorable Juan Hinojosa, Chair, Senate Committee on Intergovernmental Relations

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2123 by Guillen (Relating to the regulation of game rooms in certain counties; providing penalties; authorizing a fee.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: UP, KKR, RB, TP

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 2, 2013

TO: Honorable Wayne Smith, Chair, House Committee on Licensing & Administrative Procedures

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2123 by Guillen (Relating to the regulation of game rooms in certain counties; providing penalties; authorizing a fee.), **As Introduced**

<p>No fiscal implication to the State is anticipated.</p>
--

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: UP, RB, TP