

House Bill 2123
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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.

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

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

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

(C) is a shareholder that holds more than **50** percent of the outstanding shares of a business, company, or corporation that

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(Unless otherwise indicated, all SECTIONS below are from FA1)

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 any electronic, electromechanical, or mechanical contrivance designed, made, and adopted for bona fide amusement purposes that rewards the player exclusively with noncash merchandise, prizes, toys, or novelties, or a representation of value redeemable for those items, with a wholesale value available from a single play of the game or device in an amount not more than 10 times the amount charged to play the game or device once or \$5, whichever amount is less.

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

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

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

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

(C) is a shareholder that holds more than **10** percent of the outstanding shares of a business, **including** a company or

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has an ownership interest in a game room or an amusement redemption machine located in a game room;

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

(E) signs a lease for a game room;

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

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

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

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

(4) "Operator" means an individual who:

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

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

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

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

Sec. 234.132. APPLICABILITY. This subchapter applies only to a county with a population of less than 25,000 that

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(Unless otherwise indicated, all SECTIONS below are from FA1)

corporation, that has an ownership interest in a game room or in an amusement redemption machine located in a game room;

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

(E) signs a lease for a game room;

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

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

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

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

(4) "Operator" means an individual who:

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

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

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

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

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

Sec. 234.132. APPLICABILITY. This subchapter applies only to a county with a population of less than 25,000 that is

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borders the Gulf of Mexico and is adjacent to two or more counties each with a population of more than 400,000.

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

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

(2) 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

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

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

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

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

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

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adjacent to the Gulf of Mexico and is within 50 miles of an international border.

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

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

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

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

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

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

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

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

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Sec. 234.136. INSPECTION.

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

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

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

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

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

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

(b) A peace officer or county employee may inspect any business in which six or more amusement redemption machines are located to determine whether the business is in compliance with this subchapter or regulations adopted under this subchapter.

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

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

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

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

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

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under Section 234.133.

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

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

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

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

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

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under Section 234.133.

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

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

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

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

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

SECTION 2. Same as House version.

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