

By: Kuempel

H.B. No. 1830

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation and permitting of amusement redemption
3 game rooms; authorizing fees; creating a civil penalty and criminal
4 offense.

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

6 SECTION 1. Section [234.131](#), Local Government Code, as added
7 by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular
8 Session, 2013, is amended by adding Subdivisions (1-a), (1-b),
9 (1-c), (5), (6), (7), and (8) to read as follows:

10 (1-a) "Applicant" means a person, owner, corporation,
11 partnership, or other business entity required to submit a game
12 room application.

13 (1-b) "Current fire inspection report" means a fire
14 inspection report issued by a fire department not earlier than the
15 60th day immediately preceding the date an application for issuance
16 or renewal of a game room is filed.

17 (1-c) "Gambling device" has the meaning assigned by
18 Section [47.01](#), Penal Code.

19 (5) "Peace officer" has the meaning assigned by
20 Article [2.12](#), Code of Criminal Procedure.

21 (6) "Public building" means a building used by
22 federal, state, or local government that is open to the general
23 public.

24 (7) "Regulation" means a regulation adopted by a

1 county in this state for the operation of a game room.

2 (8) "School" means a facility, including all attached
3 playgrounds, dormitories, stadiums, and other appurtenances that
4 are part of the facility, used for the primary purpose of
5 instruction or education, including primary or secondary schools,
6 colleges, and universities, both public and private.

7 SECTION 2. Section 234.134, Local Government Code, as added
8 by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular
9 Session, 2013, is amended to read as follows:

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

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

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

21 SECTION 3. Subchapter E, Chapter 234, Local Government
22 Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd
23 Legislature, Regular Session, 2013, is amended by adding Sections
24 234.1341 and 234.1342 to read as follows:

25 Sec. 234.1341. PERMIT APPLICATION. (a) An owner or
26 operator of a game room may not operate, use, or maintain any game
27 room in a county that requires an owner or operator to obtain a

1 permit under Section 234.134 unless the owner or operator holds a
2 permit issued under this subchapter.

3 (b) An applicant shall file a completed application with the
4 county sheriff's office of the county in which the proposed game
5 room will be located. The application shall be filed on the form
6 provided by the office or on an accurate and legible copy of that
7 form. The applicant must apply in person at the office.

8 (c) The sheriff's office shall post a copy of the
9 application form and the permit fee amount on the county's Internet
10 website. The office shall establish the hours for submission of
11 applications under this section.

12 (d) The game room administrator of the sheriff's office
13 shall mail notice of receipt of a completed application or notice of
14 deficiencies in an application to the applicant not later than the
15 10th day after the date the application is received by the office.

16 (e) Each application must be accompanied by:

17 (1) an annual inspection report showing compliance
18 with any correction ordered by the sheriff's office or a fire safety
19 official;

20 (2) a copy of the certification of occupancy or
21 certification of compliance issued by the building official as
22 appropriate for the proposed game room;

23 (3) a diagram or floor plan that is prepared by a
24 licensed architect or engineer, includes designed occupancy load,
25 and is reviewed by the county clerk;

26 (4) for a game room operating under an assumed name, a
27 copy of the assumed name certificate filed in the county clerk's

1 office that includes the file mark or stamp evidencing its filing;

2 (5) a nonrefundable application fee in the amount
3 established by the county commissioners court; and

4 (6) a copy of the applicant's government-issued photo
5 identification.

6 (f) An applicant's failure to provide the information or
7 documents or pay the fee required by this section or a determination
8 by the sheriff's office that inaccurate, erroneous, or incomplete
9 information has been submitted is grounds for denial or revocation
10 of the application.

11 Sec. 234.1342. PERMIT RENEWAL. (a) A permit holder may
12 annually renew the permit not earlier than 60 days before the date a
13 permit expires by filing a completed application for the permit
14 with the game room permit administrator of the sheriff's office and
15 paying the applicable fee. A renewal application is subject to the
16 same requirements as a permit application.

17 (b) If the sheriff's office denies a game room permit, the
18 office shall give the applicant written notice of the basis for
19 denial.

20 SECTION 4. Section 234.135, Local Government Code, as added
21 by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular
22 Session, 2013, is amended to read as follows:

23 Sec. 234.135. FEES; ISSUANCE OF PERMIT; PREMISES
24 REQUIREMENTS. (a) A county may impose a fee not to exceed \$1,000 on
25 an applicant for a [~~license or~~] permit or for the renewal of the
26 [~~license or~~] permit required under this subchapter. The fee must be
27 based on the cost of processing the application and investigating

1 the applicant.

2 (b) An applicant shall pay the permit fees imposed under
3 this section to the sheriff's office. On completion of the
4 application process, the game room administrator of the sheriff's
5 office shall give the applicant a signed receipt. The receipt
6 constitutes a permit to operate the game room until the first
7 anniversary of the date the permit is issued.

8 (c) A person who holds a permit issued under this section
9 must meet and comply with all requirements of law applicable to the
10 game room premises or any activity conducted on the game room
11 premises. The issuance of a permit under this section does not
12 excuse the permit holder, the permit holder's agents or employees,
13 or any patrons of the game room for a violation of this subchapter
14 or other law.

15 SECTION 5. Section 234.136, Local Government Code, as added
16 by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular
17 Session, 2013, is amended to read as follows:

18 Sec. 234.136. INSPECTION BY LAW ENFORCEMENT OFFICER.

19 (a) A peace officer or county employee may inspect a business in
20 the county to determine the number of amusement redemption machines
21 subject to regulation under this subchapter that are located on the
22 premises of the business. A peace officer is authorized to inspect
23 any business for a violation of this subchapter. This section does
24 not authorize a right of entry otherwise prohibited by law. A peace
25 officer may enter a business under this section with consent, with a
26 warrant, or under exigent circumstances. A game room permit granted
27 under this subchapter gives peace officers implied consent under

1 this section to enter the premises of the game room.

2 (a-1) A business for which a game room permit has not been
3 issued under this subchapter that holds itself out as a game room,
4 by sign, advertisement, word-of-mouth, offering of memberships, or
5 any other means, is subject to inspection by a peace officer.
6 Refusal to allow a peace officer entry to inspect the premises of
7 the game room may be considered in establishing probable cause for
8 the issuance of a search warrant to inspect for violations of this
9 subchapter.

10 (b) A peace officer or county employee may inspect any
11 business in which six or more amusement redemption machines are
12 located to determine whether the business is in compliance with
13 this subchapter or regulations adopted under this subchapter or to
14 inspect records required under Section 234.1362.

15 (c) A person violates this subchapter if the person fails to
16 allow a peace officer or county employee to conduct an inspection of
17 a game room, an amusement redemption machine, or records required
18 under Section 234.1362 or this section.

19 SECTION 6. Subchapter E, Chapter 234, Local Government
20 Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd
21 Legislature, Regular Session, 2013, is amended by adding Sections
22 234.1361, 234.1362, 234.1363, 234.1364, 234.1365, 234.1366, and
23 234.1367 to read as follows:

24 Sec. 234.1361. DISPLAY OF GAME ROOM PERMITS. An owner or
25 operator of a game room shall display a current game room permit on
26 the game room premises. The permit must be displayed in plain sight
27 in a common area accessible to the public without entrance to a

1 controlled area of the business.

2 Sec. 234.1362. RECORDS REQUIRED. (a) An owner or operator
3 of a game room shall maintain on the premises:

4 (1) a record for each employee that includes:

5 (A) the employee's name, address, date of birth,
6 state identification number or social security number, job
7 function, and W-2 or W-4 form;

8 (B) a copy of the employee's application to work
9 with the game room and a copy of the employee's I-9 filed for
10 employment eligibility verification with the Department of
11 Homeland Security; and

12 (C) a photograph of the employee;

13 (2) a daily register that includes the name, date of
14 birth, state identification number or social security number, and
15 job function of each employee present at the establishment that
16 day; and

17 (3) a copy of the county and state tax record forms for
18 each amusement redemption machine on the premises that includes the
19 name of the manufacturer, the serial number, the type of machine,
20 and the serial number of the tax permit for a coin-operated machine
21 and, if applicable, the serial number for the county tax permit,
22 with the year of expiration for any tax permit.

23 (b) An owner or operator who violates Subsection (a) shall
24 be assessed a civil penalty of not more than \$10,000 for each record
25 required under this section that is missing.

26 (c) The game room shall preserve the daily register required
27 by Subsection (a)(2) for at least 90 days after the date the

1 register was made. An owner or operator who violates this
2 subsection may be assessed an administrative penalty in the amount
3 of \$500 for each register required to be preserved that is missing.

4 Sec. 234.1363. PROHIBITED EMPLOYMENT. (a) An owner or
5 operator of a game room may not knowingly employ any person who has
6 been previously convicted of, or entered a plea of nolo contendere
7 or guilty or received deferred adjudication for, an offense
8 involving any conduct involving gambling violations prohibited
9 under Chapter 47, Penal Code.

10 (b) An owner or operator of a game room shall conduct a
11 criminal background check on each potential employee.

12 (c) Failure to comply with this section is a violation and
13 punishable by a civil penalty assessed against an owner or operator
14 not to exceed \$10,000 per prohibited employee working at the game
15 room and per employee working at the game room without being
16 subjected to a criminal background check.

17 (d) Each day a violation of this section continues or occurs
18 constitutes a separate violation for purposes of imposing a penalty
19 under Section [234.137](#).

20 Sec. 234.1364. AMUSEMENT REDEMPTION MACHINES; PERMITS AND
21 VIOLATIONS. (a) An owner or operator of a game room shall obtain
22 from the county a permit for each amusement redemption machine on
23 the game room premises in accordance with Chapter 2153, Occupations
24 Code.

25 (b) The owner or operator of a game room shall pay an annual
26 fee in an amount equal to 25 percent of the state's annual fee per
27 machine.

1 (c) Each amusement redemption machine permit application
2 shall specify on the application the physical location of the
3 amusement redemption machine.

4 (d) If a permit is not obtained for an amusement redemption
5 machine, the county tax assessor-collector's office shall lock the
6 machine, and it may not be used until the owner purchases a permit
7 for the machine by paying a \$100 permit fee and a \$5 release fee per
8 machine.

9 (e) If a county compliance officer is not allowed entrance
10 to a game room during business hours, a civil penalty not to exceed
11 \$10,000 for each date of denial will be assessed on the owner or
12 operator of the game room.

13 (f) A county may assess a civil penalty under Section
14 234.137 on the owner or operator of a game room for each machine:

15 (1) that is not registered with a valid current year
16 video tax stamp decal prominently displayed on the machine; and

17 (2) used for illegal gambling.

18 (g) If a law enforcement agency determines through
19 investigation that a game room is operating in violation of Chapter
20 47, Penal Code, every amusement redemption machine or gambling
21 device in the game room is considered in violation. A civil penalty
22 not to exceed \$10,000 per machine or device may be assessed on the
23 owner or operator of the game room.

24 (h) It is not a defense to prosecution under this section
25 that the owner is not doing business in the owner's name, is not
26 leasing property in the owner's name, or only has an ownership
27 interest in the business.

1 Sec. 234.1365. GROUNDS FOR DENIAL, REVOCATION, OR
2 SUSPENSION OF PERMIT. (a) Any violation of this subchapter or
3 regulations adopted under this subchapter or failure to meet all
4 requirements of this subchapter and regulations adopted under this
5 subchapter is grounds for denial, revocation, or suspension of a
6 permit to operate a game room. If a game room's permit has been
7 revoked, denied, or suspended, the game room may not be operated
8 during the pendency of any appeal from the revocation, denial, or
9 suspension.

10 (b) The sheriff shall deny a game room permit on a finding by
11 the sheriff that the applicant:

12 (1) has been previously convicted of any of the
13 following offenses:

14 (A) gambling, gambling promotion, keeping a
15 gambling place, communicating gambling information, possession of
16 gambling devices or equipment, or possession of gambling
17 paraphernalia under Chapter 47, Penal Code;

18 (B) forgery, credit card abuse, or commercial
19 bribery under Chapter 32, Penal Code;

20 (C) any criminal offense under Chapter 34, Penal
21 Code;

22 (D) criminal attempt, conspiracy, or
23 solicitation to commit any of the offenses listed in Paragraphs
24 (A)-(C) or any other offense under the laws of another state or of
25 the United States that, if committed in this state, would have been
26 punishable as one or more of the offenses; or

27 (E) a criminal offense under Subchapter B,

1 Chapter 352, if:

2 (i) less than two years have elapsed since
3 the later of the date of conviction or the date of release from
4 confinement imposed for the conviction of a misdemeanor offense; or

5 (ii) less than five years have elapsed
6 since the later of the date of conviction or the date of release
7 from confinement for the conviction of a felony offense;

8 (2) makes a misleading statement in the application
9 for the game room permit;

10 (3) is younger than 18 years of age;

11 (4) has had a game room permit revoked within the
12 180-day period immediately preceding the date the application was
13 filed;

14 (5) is delinquent in the payment to the county of
15 taxes, fees, fines, or penalties assessed or imposed regarding the
16 operation of a game room;

17 (6) failed to pay the application or renewal fee
18 required by this subchapter; or

19 (7) has not had the required fire and life safety
20 inspection by a fire safety official within 60 days immediately
21 preceding the date the application was filed.

22 (c) The sheriff may initiate a proceeding to revoke or
23 suspend a game room permit if:

24 (1) any person commits on the premises of the game room
25 an offense listed in Subsection (b)(1);

26 (2) the applicant provides false, fraudulent, or
27 untruthful information on the original or renewal application;

1 (3) the game room permit should not have been issued
2 under the requirements of this subchapter or regulations adopted
3 under this subchapter;

4 (4) the owner or operator of the game room fails to
5 comply with corrections ordered by a fire safety official with
6 authority to conduct fire and life safety inspections in the county
7 in which the game room is located; or

8 (5) the owner is convicted of an offense listed in
9 Subsection (b)(1).

10 (d) The sheriff may not issue a game room permit or
11 temporary game room permit until final disposition of any case
12 involving an offense listed in Subsection (b)(1) that is pending or
13 arises during the application process.

14 Sec. 234.1366. REVOCATION OR SUSPENSION OF PERMIT. (a) If
15 an event providing a basis for revocation or suspension of a game
16 room permit under Section 234.1365 occurs, the sheriff shall send
17 to the game room permit holder or the holder's designated agent a
18 written notice of revocation or suspension. The notice must set out
19 the reasons for the action. The revocation or suspension is final on
20 the fifth day after the date notice is issued.

21 (b) The game room permit holder or the holder's designated
22 agent may appear before a hearing examiner appointed by the
23 commissioners court of the county in which the game room is located
24 on written request submitted to the sheriff not less than the 10th
25 business day after the date the notice is delivered.

26 (c) The hearing examiner may not have participated in any
27 investigation of the alleged grounds for the revocation or

1 suspension. The hearing must be held not later than the 14th
2 business day after the date the request for hearing is submitted.

3 (d) The game room permit holder and the sheriff are entitled
4 to present evidence, cross-examine witnesses, and be represented by
5 legal counsel. The rules of evidence for a civil, nonjury trial
6 apply to the hearing.

7 (e) If the facts presented at the hearing support a finding
8 that grounds exist for revoking or suspending a game room permit,
9 the hearing examiner may request that the parties present relevant
10 evidence to show whether suspension or revocation of the game room
11 permit is more appropriate. Reasonable conditions may be attached
12 to a game room permit by the hearing examiner based on the evidence
13 presented at the hearing.

14 (f) If the hearing examiner determines that a game room
15 permit should be revoked, the hearing examiner shall issue a
16 written order revoking the game room permit that is effective
17 immediately.

18 (g) If the hearing examiner determines based on the nature
19 of the violations that a suspension instead of a revocation is
20 appropriate, operation of the game room permit may be suspended for
21 a period not to exceed six months. The hearing examiner shall issue
22 a written order suspending the game room permit and attaching any
23 applicable conditions that is effective on the date the owner
24 receives notice.

25 (h) On a finding that Section 234.1365(c)(3), (4), or (5)
26 has been violated, the hearing examiner shall revoke the game room
27 permit.

1 (i) Revocation takes effect immediately on notice by the
2 sheriff, subject to reinstatement following an appeal, if:

3 (1) immediate action is required to protect the public
4 from injury or imminent danger; or

5 (2) a game room permit was issued based on a
6 misrepresentation in the application, and the game room permit
7 would not have been issued otherwise.

8 Sec. 234.1367. HEARING. (a) An applicant may file a written
9 request for a hearing with the sheriff's office's game room permit
10 administrator not later than the 20th day after the date of the
11 denial, revocation, or suspension. The applicant waives the right
12 to a hearing if the request is not timely received by the
13 administrator.

14 (b) The applicant may reapply for a game room permit if the
15 applicant makes the changes necessary for the proposed game room to
16 be in compliance with this subchapter and regulations adopted under
17 this subchapter.

18 (c) The decision of the hearing examiner is final. The
19 losing party may appeal the decision by filing a petition in a
20 district court in the county not later than the 30th day after the
21 date of the decision. Judicial review is under the substantial
22 evidence rule, and the judgment of the district court may be
23 appealed, as in other civil cases.

24 SECTION 7. Section 234.132, Local Government Code, as added
25 by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature, Regular
26 Session, 2013, is repealed.

27 SECTION 8. Subchapter E, Chapter 234, Local Government

H.B. No. 1830

1 Code, as added by Chapter 1377 (H.B. 1127), Acts of the 83rd
2 Legislature, Regular Session, 2013, is repealed.

3 SECTION 9. This Act takes effect September 1, 2015.