

By: Raymond

H.B. No. 647

A BILL TO BE ENTITLED

AN ACT

relating to local option elections to legalize or prohibit the operation of eight-liners; imposing fees; creating criminal offenses; increasing criminal penalties.

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

SECTION 1. Title 17, Election Code, is amended by adding Chapter 502 to read as follows:

CHAPTER 502. LOCAL OPTION ELECTIONS ON OPERATION OF

EIGHT-LINERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 502.001. DEFINITION. In this chapter, "eight-liner" has the meaning assigned by Section 47.01, Penal Code.

SUBCHAPTER B. MANNER OF CALLING ELECTION

Sec. 502.051. ELECTION BY PETITION. On proper petition by the required number of voters of a county or of a justice precinct or municipality in the county, the commissioners court of the county shall order a local option election in the political subdivision specified in the petition to legalize or prohibit the operation of eight-liners in the political subdivision.

Sec. 502.052. QUALIFICATION FOR POLITICAL SUBDIVISION TO HOLD ELECTION. A political subdivision must have been in existence for at least 18 months before a local option election to legalize or prohibit the operation of eight-liners in the political subdivision may be held.

1 Sec. 502.053. APPLICATION FOR PETITION. (a) If 10 or more
2 qualified voters of any county or any justice precinct or
3 municipality within the county file with the county clerk a written
4 application and provide proof of publication of notice in a
5 newspaper of general circulation in that political subdivision, the
6 county clerk shall issue to the applicants a petition to be
7 circulated among and signed by the qualified voters of the
8 political subdivision requesting that a local option election be
9 called to determine whether to legalize or prohibit the operation
10 of eight-liners in the political subdivision.

11 (b) Not later than the fifth day after the date the petition
12 is issued, the county clerk shall notify the secretary of state of
13 the petition's issuance.

14 Sec. 502.054. CONTENTS OF APPLICATION FOR PETITION TO
15 LEGALIZE. (a) An application for a petition requesting an election
16 to legalize the operation of eight-liners must include the heading:
17 "Application for Local Option Election Petition to Legalize the
18 Operation of Eight-Liners."

19 (b) The application must contain the following statement of
20 the issue to be voted on, immediately preceding the signatures of
21 the applicants: "It is the purpose and intent of the applicants
22 whose signatures appear on this application to legalize the
23 operation of eight-liners in (name of political subdivision)."

24 Sec. 502.055. CONTENTS OF APPLICATION FOR PETITION TO
25 PROHIBIT. (a) An application for a petition requesting an election
26 to prohibit the operation of eight-liners must include the heading:
27 "Application for Local Option Election Petition to Prohibit the

1 Operation of Eight-Liners."

2 (b) The application must contain the following statement of
3 the issue to be voted on, immediately preceding the signatures of
4 the applicants: "It is the purpose and intent of the applicants
5 whose signatures appear on this application to prohibit the
6 operation of eight-liners in (name of political subdivision)."

7 Sec. 502.056. PETITION REQUIREMENTS. A petition must
8 include the date the petition is issued by the county clerk and be
9 serially numbered. Each page of the petition must bear the same
10 date and serial number and the actual seal of the county clerk
11 rather than a facsimile of that seal.

12 Sec. 502.057. HEADING AND STATEMENT ON PETITION TO
13 LEGALIZE. (a) Each page of the petition for a local option
14 election to legalize the operation of eight-liners must include the
15 heading: "Petition for Local Option Election to Legalize the
16 Operation of Eight-Liners."

17 (b) The petition must contain the following statement of the
18 issue to be voted on, immediately preceding the signatures of the
19 petitioners: "It is the purpose and intent of the petitioners whose
20 signatures appear on this petition to legalize the operation of
21 eight-liners in (name of political subdivision)."

22 Sec. 502.058. HEADING AND STATEMENT ON PETITION TO
23 PROHIBIT. (a) Each page of the petition for a local option
24 election to prohibit the operation of eight-liners must include the
25 heading: "Petition for Local Option Election to Prohibit the
26 Operation of Eight-Liners."

27 (b) The petition must contain the following statement of the

1 issue to be voted on, immediately preceding the signatures of the
2 petitioners: "It is the purpose and intent of the petitioners whose
3 signatures appear on this petition to prohibit the operation of
4 eight-liners in (name of political subdivision)."

5 Sec. 502.059. OFFENSE: MISREPRESENTATION OF PETITION. (a)

6 A person commits an offense if the person misrepresents the purpose
7 or effect of a petition issued under this chapter.

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

9 Sec. 502.060. COPIES OF PETITION; RECORDS. (a) The county

10 clerk shall provide the number of copies of the petition required by
11 the applicants provided that number does not exceed one page for
12 every 10 registered voters of the county or of a justice precinct or
13 municipality in the county. Each copy must bear the date, number,
14 and seal on each page as required on the original petition.

15 (b) The county clerk shall keep a copy of each petition and a
16 record of the applicants for the petition.

17 Sec. 502.061. VERIFICATION OF PETITION. (a) Except as

18 otherwise provided by Section 277.003, the voter registrar of the
19 county shall check the names of the signers of petitions and the
20 voting precincts in which the signers reside to determine whether
21 the signers were qualified voters of the county, justice precinct,
22 or municipality at the time the petition was issued. The registrar
23 shall certify to the commissioners court the number of qualified
24 voters signing the petition.

25 (b) A petition signature may not be counted unless:

26 (1) the signature is the actual signature of the
27 purported signer;

1 (2) the petition contains in addition to the
2 signature:

3 (A) the signer's printed name;

4 (B) the signer's date of birth;

5 (C) if the territory from which signatures must
6 be obtained is situated in more than one county, the county of
7 registration;

8 (D) the signer's residence address; and

9 (E) the date of signing; and

10 (3) the petition complies with any other applicable
11 requirements prescribed by law.

12 (c) The use of ditto marks or abbreviations does not
13 invalidate a signature if the required information is reasonably
14 ascertainable.

15 (d) The omission of the state from the signer's residence
16 address does not invalidate a signature unless the political
17 subdivision from which the signature is obtained is situated in
18 more than one state. The omission of the zip code from the address
19 does not invalidate a signature.

20 (e) The signature is the only entry on the petition that is
21 required to be in the signer's handwriting.

22 (f) A signer may withdraw the signer's signature by deleting
23 the signature from the petition or by filing with the voter
24 registrar an affidavit requesting that the signature be withdrawn
25 from the petition. A signer may not withdraw the signature from a
26 petition on or after the date the petition is received by the
27 registrar. A withdrawal affidavit filed by mail is considered to be

1 filed at the time of its receipt by the registrar. The withdrawal
2 of a signature nullifies the signature on the petition and places
3 the signer in the same position as if the signer had not signed the
4 petition.

5 Sec. 502.062. REQUIREMENTS TO ORDER ELECTION. (a) The
6 commissioners court, at its next regular session on or after the
7 30th day after the date a petition is filed, shall order a local
8 option election to be held on the issue set out in the petition that
9 complies with the requirements of Subsection (b).

10 (b) The petition must:

11 (1) be filed with the voter registrar not later than
12 the 60th day after the date the petition is issued; and

13 (2) bear the signatures of a number of qualified
14 voters of the political subdivision equal to at least 35 percent of
15 the registered voters of the subdivision who voted in the most
16 recent gubernatorial election.

17 (c) A voter whose name appears on the list of registered
18 voters with the notation "S," or a similar notation, shall be
19 excluded from the computation of the number of registered voters of
20 a particular territory.

21 Sec. 502.063. RECORD IN MINUTES. The commissioners court
22 shall enter in its minutes the date a petition is presented, the
23 names of the signers, and the action taken with respect to the
24 petition.

25 Sec. 502.064. ISSUES TO APPEAR IN ORDER FOR ELECTION. (a)
26 The election order must state in its heading and text whether the
27 local option election to be held is for the purpose of legalizing or

1 prohibiting the operation of eight-liners as set out in the issue
2 recited in the application and petition.

3 (b) The order must state the issue to be voted on in the
4 election.

5 Sec. 502.065. BALLOT. The ballot in an election to legalize
6 or prohibit the operation of eight-liners shall be prepared to
7 permit voting for or against: "The legal operation of eight-liners
8 in (name of political subdivision)."

9 Sec. 502.066. EVIDENCE OF VALIDITY. The commissioners
10 court election order is prima facie evidence of compliance with all
11 provisions necessary to give the order validity or to give the
12 commissioners court jurisdiction to make the order valid.

13 Sec. 502.067. FREQUENCY OF ELECTIONS. A local option
14 election on a particular issue may not be held in a political
15 subdivision until after the first anniversary of the date of the
16 most recent local option election in that political subdivision on
17 that issue.

18 SUBCHAPTER C. HOLDING OF ELECTION

19 Sec. 502.101. APPLICABILITY OF ELECTION CODE. Except as
20 provided by this chapter, the officers holding a local option
21 election shall hold the election in the manner provided by this
22 code.

23 Sec. 502.102. ELECTION PRECINCTS. (a) County election
24 precincts shall be used for a local option election to be held in an
25 entire county or in a justice precinct.

26 (b) Election precincts established by the governing body of
27 the municipality for its municipal elections shall be used for a

1 local option election to be held in a municipality. If the
2 governing body has not established precincts for its municipal
3 elections, the commissioners court of the county in which the
4 municipality is located shall prescribe the election precincts for
5 the local option election under the law governing establishment of
6 precincts for municipal elections.

7 Sec. 502.103. ISSUE ON BALLOT. (a) The issue ordered to
8 appear on the ballot for an election ordered by the commissioners
9 court must be the same as the issue applied for and set out in the
10 petition.

11 (b) The ballot must include the language required by Section
12 502.065.

13 Sec. 502.104. COUNTY PAYMENT OF ELECTION EXPENSES. The
14 county shall pay the expense of holding a local option election
15 authorized by this chapter in the county or in a justice precinct or
16 municipality in the county except that:

17 (1) if an election is to be held only within the
18 corporate limits of a municipality located wholly within the
19 county, the county may require the municipality to reimburse the
20 county for all or part of the expenses of holding the local option
21 election;

22 (2) county payment of the expense of an election to
23 legalize the operation of eight-liners is limited to the holding of
24 one election in a political subdivision during a one-year period;
25 and

26 (3) county payment of the expense of an election to
27 prohibit the operation of eight-liners is limited to the holding of

1 one election in a political subdivision during a one-year period.

2 Sec. 502.105. DEPOSIT REQUIRED FOR CERTAIN ELECTIONS;
3 OFFENSE. (a) If a county is not required to pay the expense of a
4 local option election under Section 502.104, the county clerk shall
5 require the applicants for a petition for a local option election to
6 make a deposit before the issuance of the petition.

7 (b) The deposit must be in the form of a cashier's check in
8 an amount equal to 25 cents per voter listed on the current list of
9 registered voters residing in the county or in a justice precinct or
10 municipality in the county where the election is to be held.

11 (c) The money received shall be deposited in the county's
12 general fund. A refund may not be made to the applicants regardless
13 of whether the petition is returned to the county clerk or the
14 election is ordered.

15 (d) The county clerk may not issue a petition to the
16 applicants unless a deposit required by this chapter is made.

17 (e) A person who violates Subsection (d) commits an offense.
18 An offense under this subsection is a misdemeanor punishable by:

- 19 (1) a fine of not less than \$200 nor more than \$500;
20 (2) confinement in the county jail for not more than 30
21 days; or
22 (3) both the fine and confinement.

23 Sec. 502.106. ELECTION IN CERTAIN MUNICIPALITIES. (a)
24 This section applies only to an election to legalize or prohibit the
25 operation of eight-liners in a municipality located in more than
26 one county.

27 (b) An election to which this section applies shall be

1 conducted by the municipality instead of the counties. For the
2 purposes of an election conducted under this section, a reference
3 in this chapter to:

4 (1) the county is considered to refer to the
5 municipality;

6 (2) the commissioners court is considered to refer to
7 the governing body of the municipality;

8 (3) the county clerk or voter registrar is considered
9 to refer to the secretary of the municipality or, if the
10 municipality does not have a secretary, to the person performing
11 the functions of a secretary of the municipality; and

12 (4) the county judge is considered to refer to the
13 mayor of the municipality or, if the municipality does not have a
14 mayor, to the presiding officer of the governing body of the
15 municipality.

16 (c) The municipality shall pay the expense of the election.

17 (d) An action to contest the election under Section 502.155
18 may be brought in the district court of any county in which the
19 municipality is located.

20 SUBCHAPTER D. PROCEDURE FOLLOWING ELECTION

21 Sec. 502.151. DECLARATION OF RESULT. (a) On completing the
22 canvass of the election returns, the commissioners court shall
23 issue an order declaring the election result, and the clerk of the
24 commissioners court shall record the order as provided by law.

25 (b) In a legalization election, if a majority of the votes
26 cast favor legalizing the operation of eight-liners in the
27 political subdivision, the operation of eight-liners within the

1 boundaries of the political subdivision is legal on the entering of
2 the court's order. The legalization remains in effect until
3 changed by a subsequent local option election held under this
4 chapter.

5 (c) In a prohibitory election, if a majority of the votes
6 cast favor prohibiting the legal operation of eight-liners in the
7 political subdivision, the court's order must state that the
8 operation of eight-liners within the boundaries of the political
9 subdivision is prohibited effective on the 30th day after the date
10 the order is entered. The prohibition remains in effect until
11 changed by a subsequent local option election held under this
12 chapter.

13 (d) The local option status of a political subdivision does
14 not change as a result of the election if less than a majority of the
15 votes cast favor the issue.

16 Sec. 502.152. ORDER PRIMA FACIE EVIDENCE. The order of the
17 commissioners court declaring an election result is prima facie
18 evidence that all provisions of law have been complied with in
19 giving notice of and holding the election, counting and returning
20 the votes, and declaring the result of the election.

21 Sec. 502.153. CERTIFICATION OF RESULT. Not later than the
22 third day after the date the result of a local option election has
23 been declared, the county clerk shall certify the result to the
24 secretary of state. The clerk may not charge a fee for this
25 service.

26 Sec. 502.154. POSTING ORDER PROHIBITING OPERATION. (a) A
27 commissioners court order declaring the result of a local option

1 election and prohibiting the operation of eight-liners within the
2 boundaries of a political subdivision must be published by posting
3 the order at three public places in the political subdivision in
4 which the election was held.

5 (b) The county judge shall record the posting of the order
6 in the minutes of the commissioners court. The entry in the minutes
7 or a copy certified under the hand and seal of the county clerk is
8 prima facie evidence of the posting.

9 Sec. 502.155. ELECTION CONTEST. (a) The enforcement of
10 local option laws in the political subdivision in which an election
11 is being contested is not suspended during an election contest.

12 (b) The result of an election contest finally settles all
13 questions relating to the validity of that election. A person may
14 not call the legality of that election into question again in any
15 other suit or proceeding.

16 (c) If an election contest is not timely instituted, it is
17 conclusively presumed that the election is valid and binding in all
18 respects on all courts.

19 SUBCHAPTER E. LOCAL OPTION STATUS; PRECINCT BOUNDARIES

20 Sec. 502.201. LOCAL OPTION STATUS OF AREA. (a) In a
21 criminal prosecution, all trial courts of this state shall take
22 judicial notice of whether the operation of eight-liners is legal
23 or prohibited in an area.

24 (b) In an information, complaint, or indictment, an
25 allegation that the operation of eight-liners is prohibited in an
26 area is sufficient, but a different status of the area may be urged
27 and proved as a defense.

1 Sec. 502.202. CHANGE OF STATUS. Except as provided in
2 Section 502.203, a political subdivision that has exercised or may
3 exercise the right of local option to legalize or prohibit the
4 operation of eight-liners retains the status adopted until that
5 status is changed by a subsequent local option election in the same
6 political subdivision.

7 Sec. 502.203. PREVAILING STATUS: RESOLUTION OF CONFLICTS.
8 To ensure that each voter has the maximum possible control over the
9 status of the operation of eight-liners in the area where the voter
10 resides:

11 (1) the status that resulted from or is the result of a
12 duly called election for a municipality prevails against the status
13 that resulted from or is the result of an election in the county in
14 which the municipality or any part of the municipality is located;
15 and

16 (2) the status that resulted from or is the result of
17 an election for a justice precinct prevails against the status that
18 resulted from or is the result of an election in a municipality in
19 which the justice precinct is wholly contained or in a county in
20 which the justice precinct is located.

21 Sec. 502.204. CHANGE IN PRECINCT BOUNDARIES. (a) When a
22 local option status is in effect as the result of the vote in a
23 justice precinct, the status shall remain in effect until the
24 status is changed as the result of a vote in the same territory that
25 constituted the precinct when the status was established. If the
26 boundaries of the justice precinct have changed since the status
27 was established, the commissioners court shall, for purposes of a

1 local option election, define the boundaries of the original
2 precinct. A local option election may be held within the territory
3 defined by the commissioners court as constituting the original
4 precinct.

5 (b) Nothing in this section is intended to affect the
6 operation of Section 502.203.

7 (c) Section 502.104, relating to the payment of local option
8 election expenses, applies to elections held in a territory that is
9 defined in accordance with Subsection (a) of this section.

10 SECTION 2. Section 2153.002, Occupations Code, is amended
11 by amending Subdivisions (1), (5), (6), and (9) and adding
12 Subdivision (2-a) to read as follows:

13 (1) "Coin-operated machine" means any kind of machine
14 or device operated by or with a coin or other United States
15 currency, metal slug, token, electronic card, or check, including a
16 music or skill or pleasure coin-operated machine. The term does not
17 include an eight-liner.

18 (2-a) "Eight-liner" has the meaning assigned by
19 Section 47.01, Penal Code.

20 (5) "Operator" means a person who exhibits or
21 displays, or permits to be exhibited or displayed, a coin-operated
22 machine or an eight-liner in this state in a place of business that
23 is not owned by the person.

24 (6) "Owner" means a person who owns a coin-operated
25 machine or an eight-liner in this state.

26 (9) "Skill or pleasure coin-operated machine" means
27 any kind of coin-operated machine that dispenses, or is used or is

1 capable of being used to dispense or afford, amusement, skill, or
2 pleasure or is operated for any purpose, other than for dispensing
3 only merchandise, music, or service. The term:

4 (A) includes a marble machine, marble table
5 machine, marble shooting machine, miniature racetrack machine,
6 miniature football machine, miniature golf machine, miniature
7 bowling machine, billiard or pool game, or machine or device that
8 dispenses merchandise or commodities or plays music in connection
9 with or in addition to dispensing skill or pleasure; and

10 (B) does not include an amusement machine
11 designed exclusively for a child or an eight-liner.

12 SECTION 3. Chapter 2153, Occupations Code, is amended by
13 adding Subchapter K to read as follows:

14 SUBCHAPTER K. FEE ON EIGHT-LINERS

15 Sec. 2153.501. IMPOSITION OF FEE. (a) A fee is imposed on
16 each eight-liner that an owner exhibits or displays, or permits to
17 be exhibited or displayed, in this state.

18 (b) The amount of the fee is \$350 per year.

19 Sec. 2153.502. EXEMPTION. The fee imposed under this
20 subchapter does not apply to an owner of an eight-liner if the owner
21 possesses the eight-liner for resale only.

22 Sec. 2153.503. PRORATED FEE. The fee on an eight-liner
23 first exhibited or displayed in this state after March 31 of any
24 year is one-fourth of the amount imposed under Section 2153.501 for
25 each quarter or partial quarter of the calendar year remaining
26 after the date the owner first exhibits or displays the
27 eight-liner.

1 Sec. 2153.504. COLLECTION. (a) The comptroller shall
2 collect the fee.

3 (b) In collecting the fee, the comptroller may:

4 (1) collect the fee on a quarterly basis;

5 (2) establish procedures for quarterly collection of
6 the fee; and

7 (3) establish dates on which the fee payment is due.

8 (c) An owner required to pay a fee under this section shall
9 pay the fee to the comptroller by cashier's check, money order, or
10 any other method authorized by the comptroller.

11 Sec. 2153.505. ALLOCATION OF REVENUE. (a) Notwithstanding
12 Section 2153.058, the comptroller shall:

13 (1) deposit 30 percent of each fee collected under
14 this subchapter to the credit of the general revenue fund; and

15 (2) remit 70 percent of the fee collected under this
16 subchapter to:

17 (A) the municipality for an eight-liner located
18 in the municipality; or

19 (B) the county for an eight-liner located outside
20 a municipality.

21 (b) The comptroller shall remit fee revenue to a
22 municipality or county under this section as soon as feasible after
23 collecting the fee.

24 Sec. 2153.506. REFUND OR CREDIT PROHIBITED. The
25 comptroller may not refund or assign credit for the fee imposed
26 under this subchapter to an owner who ceases to exhibit or display
27 an eight-liner before the end of the calendar year for which the fee

1 is imposed.

2 Sec. 2153.507. FEE PERMIT. (a) The comptroller shall issue
3 a fee permit to an owner who pays the fee.

4 (b) The comptroller may issue a duplicate fee permit to an
5 owner if the owner's fee permit is lost, stolen, or destroyed. The
6 fee for a duplicate permit is \$5.

7 (c) A fee permit shall be securely attached to the
8 eight-liner for which the permit is issued in a manner that requires
9 the continued application of steam and water to remove the permit.

10 Sec. 2153.508. DISCIPLINARY AUTHORITY. The comptroller
11 may:

12 (1) conduct an investigation of a violation of this
13 subchapter or a ruled adopted under this subchapter; and

14 (2) impose sanctions in accordance with Subchapter G
15 and penalties in accordance with Subchapter H on a person who
16 violates this subchapter or a rule adopted under this subchapter as
17 if the person held a license or registration certificate issued
18 under this chapter.

19 Sec. 2153.509. APPLICABILITY OF TAX CODE. Subtitle B,
20 Title 2, Tax Code, applies to the administration, collection, and
21 enforcement of taxes, penalties, and interest under this
22 subchapter.

23 SECTION 4. Section [234.131](#), Local Government Code, is
24 amended by amending Subdivisions (1), (2), and (3) and adding
25 Subdivision (1-a) to read as follows:

26 (1) "Amusement redemption machine" means a bona fide
27 amusement device as defined by Section [47.01](#), Penal Code, operated

1 in a manner that constitutes an affirmative defense under Section
2 47.091, Penal Code [~~any electronic, electromechanical, or~~
3 ~~mechanical contrivance designed, made, and adopted for bona fide~~
4 ~~amusement purposes that rewards the player exclusively with noncash~~
5 ~~merchandise, prizes, toys, or novelties, or a representation of~~
6 ~~value redeemable for those items, with a wholesale value available~~
7 ~~from a single play of the game or device in an amount not more than~~
8 ~~10 times the amount charged to play the game or device once or \$5,~~
9 ~~whichever amount is less].~~

10 (1-a) "Gambling device" has the meaning assigned by
11 Section 47.01, Penal Code.

12 (2) "Game room" means a for-profit business located in
13 a building or place that contains six or more:

14 (A) amusement redemption machines; or

15 (B) gambling devices [~~electronic,~~
16 ~~electromechanical, or mechanical contrivances that, for~~
17 ~~consideration, afford a player the opportunity to obtain a prize or~~
18 ~~thing of value, the award of which is determined solely or partially~~
19 ~~by chance, regardless of whether the contrivance is designed, made,~~
20 ~~or adopted solely for bona fide amusement purposes].~~

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

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

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

1 gambling device located in a game room;

2 (C) is a shareholder that holds more than 10
3 percent of the outstanding shares of a business, including a
4 company or corporation, that has an ownership interest in a game
5 room or in an amusement redemption machine or gambling device
6 located in a game room;

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

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

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

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

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

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

18 SECTION 5. Sections 234.136(a) and (b), Local Government
19 Code, are amended to read as follows:

20 (a) A peace officer or county employee may inspect a
21 business in the county to determine the number of amusement
22 redemption machines or gambling devices [~~machines described by~~
23 ~~Section 234.131(2)(B)] subject to regulation under this subchapter
24 that are located on the premises of the business.~~

25 (b) A peace officer or county employee may inspect any
26 business in which six or more amusement redemption machines or
27 gambling devices [~~machines described by Section 234.131(2)(B)] are~~

1 located to determine whether the business is in compliance with
2 this subchapter or regulations adopted under this subchapter.

3 SECTION 6. Section 47.01, Penal Code, is amended by
4 amending Subdivisions (4) and (9) and adding Subdivisions (10),
5 (11), and (12) to read as follows:

6 (4) "Gambling device" means any device [~~electronic,~~
7 ~~electromechanical, or mechanical contrivance not excluded under~~
8 ~~Paragraph (B)] that for [~~a~~] consideration affords the player or
9 user of the device an opportunity to obtain any thing [~~anything~~] of
10 value, the award of which is determined solely or partially by
11 chance, even though accompanied by some skill[~~, whether or not the~~
12 ~~prize is automatically paid by the contrivance]]. The term[~~+~~~~~~

13 [~~(A)~~] includes, but is not limited to, an
14 eight-liner, a gambling device version [~~versions~~] of bingo, keno,
15 blackjack, lottery, roulette, video poker, or similar electronic,
16 electromechanical, or mechanical games, or a facsimile of any of
17 those games [~~facsimiles thereof~~], that:

18 (A) operates solely or partially [~~operate~~] by
19 chance;

20 (B) [~~or partially so, that~~] as a result of the
21 play or use [~~operation~~] of the game, awards [~~award~~] credits or free
22 games; [~~7~~] and

23 (C) records [~~that record~~] the number of free
24 games or credits [~~se~~] awarded and the cancellation or removal of the
25 free games or credits[~~, and~~

26 [~~(B) does not include any electronic,~~
27 ~~electromechanical, or mechanical contrivance designed, made, and~~

1 ~~adapted solely for bona fide amusement purposes if the contrivance~~
2 ~~rewards the player exclusively with noncash merchandise prizes,~~
3 ~~toys, or novelties, or a representation of value redeemable for~~
4 ~~those items, that have a wholesale value available from a single~~
5 ~~play of the game or device of not more than 10 times the amount~~
6 ~~charged to play the game or device once or \$5, whichever is less].~~

7 (9) "Thing of value" means any property, money, right,
8 privilege, or other benefit, including a representation of value
9 redeemable for any property, money, right, privilege, or other
10 benefit [~~but does not include an unrecorded and immediate right of~~
11 ~~replay not exchangeable for value].~~

12 (10) "Device" includes all or part of an electronic,
13 electromechanical, or mechanical contrivance, machine, or
14 apparatus.

15 (11) "Eight-liner" means an electronic device capable
16 of simulating the play of a traditional mechanical slot machine, or
17 one-armed bandit, regardless of the number of lines of play on the
18 device, that for the payment of consideration affords a player of a
19 game on the device an opportunity to win a prize based solely or
20 partially on chance, if the prize from a single play of the game
21 consists of:

22 (A) cash in an amount of \$1,500 or less; or

23 (B) noncash merchandise, or a representation of
24 value redeemable for noncash merchandise, that has a wholesale
25 value of \$1,500 or less.

26 (12) "Bona fide amusement device" means a device on
27 which an amusement game or other activity can be played or conducted

1 for consideration, for which skill is the predominating requirement
2 for a player of the game to win or be awarded a thing of value. The
3 term does not include:

- 4 (A) an eight-liner; or
5 (B) an electronic, electromechanical, or
6 mechanical version of bingo, keno, blackjack, lottery, roulette,
7 video poker, or a similar game, or a facsimile of any of those
8 games, that operates solely or partially by chance.

9 SECTION 7. Section 47.02(c), Penal Code, is amended to read
10 as follows:

11 (c) It is a defense to prosecution under this section that
12 the actor reasonably believed that the conduct:

13 (1) was permitted under Chapter 2001, Occupations
14 Code;

15 (2) was permitted under Chapter 2002, Occupations
16 Code;

17 (3) was permitted under Chapter 2004, Occupations
18 Code;

19 (4) consisted entirely of participation in the state
20 lottery authorized by the State Lottery Act (Chapter 466,
21 Government Code);

22 (5) was permitted under Subtitle A-1, Title 13,
23 Occupations Code (Texas Racing Act); [~~or~~]

24 (6) consisted entirely of participation in a drawing
25 for the opportunity to participate in a hunting, fishing, or other
26 recreational event conducted by the Parks and Wildlife Department;

27 or

1 (7) consisted entirely of operating an eight-liner in
2 an area in which the operation of eight-liners has been legalized by
3 a local option election under Chapter 502, Election Code.

4 SECTION 8. Section 47.03(b), Penal Code, is amended to read
5 as follows:

6 (b) An offense under this section is a Class A misdemeanor,
7 except that the offense is:

8 (1) a state jail felony if:

9 (A) the offense involves a device described by
10 Section 47.01(11) other than the monetary prize limits provided by
11 Sections 47.01(11)(A) and (B); and

12 (B) the prize for a single play of the game is
13 more than \$1,500 but less than \$20,000;

14 (2) a felony of the third degree if:

15 (A) the offense involves a device described by
16 Section 47.01(11) other than the monetary prize limits provided by
17 Sections 47.01(11)(A) and (B); and

18 (B) the prize for a single play of the game is at
19 least \$20,000 but less than \$100,000; or

20 (3) a felony of the second degree if:

21 (A) the offense involves a device described by
22 Section 47.01(11) other than the monetary prize limits provided by
23 Sections 47.01(11)(A) and (B); and

24 (B) the prize for a single play of the game is
25 \$100,000 or more.

26 SECTION 9. Section 47.04(c), Penal Code, is amended to read
27 as follows:

1 (c) An offense under this section is a Class A misdemeanor,
2 except that the offense is:

3 (1) a state jail felony if:

4 (A) the offense involves a device described by
5 Section 47.01(11) other than the monetary prize limits provided by
6 Sections 47.01(11)(A) and (B); and

7 (B) the prize for a single play of the game is
8 more than \$1,500 but less than \$20,000;

9 (2) a felony of the third degree if:

10 (A) the offense involves a device described by
11 Section 47.01(11) other than the monetary prize limits provided by
12 Sections 47.01(11)(A) and (B); and

13 (B) the prize for a single play of the game is at
14 least \$20,000 but less than \$100,000; or

15 (3) a felony of the second degree if:

16 (A) the offense involves a device described by
17 Section 47.01(11) other than the monetary prize limits provided by
18 Sections 47.01(11)(A) and (B); and

19 (B) the prize for a single play of the game is
20 \$100,000 or more.

21 SECTION 10. Section 47.06(e), Penal Code, is amended to
22 read as follows:

23 (e) An offense under this section is a Class A misdemeanor,
24 except that the offense is:

25 (1) a state jail felony if:

26 (A) the offense involves a device described by
27 Section 47.01(11) other than the monetary prize limits provided by

1 Sections 47.01(11)(A) and (B); and

2 (B) the prize for a single play of the game is
3 more than \$1,500 but less than \$20,000;

4 (2) a felony of the third degree if:

5 (A) the offense involves a device described by
6 Section 47.01(11) other than the monetary prize limits provided by
7 Sections 47.01(11)(A) and (B); and

8 (B) the prize for a single play of the game is at
9 least \$20,000 but less than \$100,000; or

10 (3) a felony of the second degree if:

11 (A) the offense involves a device described by
12 Section 47.01(11) other than the monetary prize limits provided by
13 Sections 47.01(11)(A) and (B); and

14 (B) the prize for a single play of the game is
15 \$100,000 or more.

16 SECTION 11. Section 47.09(a), Penal Code, is amended to
17 read as follows:

18 (a) It is a defense to prosecution under this chapter that
19 the conduct:

20 (1) was authorized under:

21 (A) Chapter 2001, Occupations Code;

22 (B) Chapter 2002, Occupations Code;

23 (C) Chapter 2004, Occupations Code;

24 (D) Subtitle A-1, Title 13, Occupations Code
25 (Texas Racing Act); or

26 (E) Chapter 280, Finance Code;

27 (2) consisted entirely of participation in the state

1 lottery authorized by Chapter 466, Government Code; ~~[or]~~

2 (3) was a necessary incident to the operation of the
3 state lottery and was directly or indirectly authorized by:

4 (A) Chapter 466, Government Code;

5 (B) the lottery division of the Texas Lottery
6 Commission;

7 (C) the Texas Lottery Commission; or

8 (D) the director of the lottery division of the
9 Texas Lottery Commission; or

10 (4) consisted entirely of operating an eight-liner in
11 an area in which the operation of eight-liners has been legalized by
12 a local option election under Chapter 502, Election Code.

13 SECTION 12. Chapter 47, Penal Code, is amended by adding
14 Section 47.091 to read as follows:

15 Sec. 47.091. DEFENSES FOR BONA FIDE AMUSEMENT DEVICE. (a)
16 It is an affirmative defense to prosecution under Section 47.02
17 that:

18 (1) the conduct consists entirely of the play or use of
19 a bona fide amusement device; and

20 (2) the player or user may not win or be awarded a
21 thing of value for playing or using the device other than:

22 (A) noncash merchandise available only on the
23 premises where the device is located; or

24 (B) a ticket, coupon, or other representation of
25 value redeemable only on the premises where the device is located
26 for noncash merchandise.

27 (b) For purposes of Subsection (a):

1 (1) the noncash merchandise or representation of value
2 redeemable for noncash merchandise that may be won or awarded for a
3 single play of a game or use of the device may not have a wholesale
4 value of more than the lesser of:

5 (A) 10 times the amount charged for the single
6 play or use; or

7 (B) \$5; and

8 (2) an item of noncash merchandise that may be won or
9 awarded for playing or using the device or for which a person may
10 redeem one or more tickets, coupons, or other representations of
11 value won or awarded for playing or using the device may not have a
12 wholesale value of more than \$50.

13 (c) It is an affirmative defense to prosecution under
14 Section 47.03, 47.04, or 47.06 that the conduct consists of or is a
15 necessary incident to offering, using, or maintaining one or more
16 bona fide amusement devices used exclusively for conduct for which
17 Subsection (a) provides an affirmative defense to a person playing
18 or using the device, including the manufacturing, transporting,
19 storing, or repairing of the device.

20 SECTION 13. Section 47.02(e), Penal Code, is repealed.

21 SECTION 14. (a) The change in law made by this Act applies
22 only to an offense committed on or after the effective date of this
23 Act. For purposes of this section, an offense is committed before
24 the effective date of this Act if any element of the offense occurs
25 before that date.

26 (b) An offense committed before the effective date of this
27 Act is covered by the law in effect when the offense was committed,

1 and the former law is continued in effect for that purpose.

2 SECTION 15. (a) Except as provided by Subsection (b) of
3 this section, this Act takes effect on the date the constitutional
4 amendment proposed by the 87th Legislature, Regular Session, 2021,
5 authorizing local option elections to legalize or prohibit the
6 operation of eight-liners or similar gaming devices is approved by
7 the voters. If that amendment is not approved by the voters, this
8 Act has no effect.

9 (b) Subject to Subsection (a) of this section, Subchapter K,
10 Chapter [2153](#), Occupations Code, as added by this Act, takes effect
11 January 1, 2022.