

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**GAMING**  
**Senator Richter, Chair**  
**Senator Sachs, Vice Chair**

**MEETING DATE:** Monday, March 10, 2014  
**TIME:** 2:30 —3:30 p.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Office Building

**MEMBERS:** Senator Richter, Chair; Senator Sachs, Vice Chair; Senators Abruzzo, Benacquisto, Braynon, Clemens, Dean, Galvano, Gardiner, Latvala, Lee, Margolis, Montford, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
<p><b>A proposed committee substitute</b> for the following bill (SB 668) is expected to be considered:</p>			
1	<b>SB 668</b> Stargel (Identical H 945, Compare H 1383)	Amusement Machines; Prohibiting merchandise from exceeding a specified value; requiring the Department of Revenue to calculate annually an adjusted cap on the per-game cost of merchandise; repealing provisions relating to an injunction to restrain violation, etc.	Fav/CS Yeas 13 Nays 0
		GM     03/10/2014 Fav/CS CM RC	

Other Related Meeting Documents

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Gaming

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BILL: CS/SB 668

INTRODUCER: Committee on Gaming

SUBJECT: Amusement Machines

DATE: March 10, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Guthrie	GM	Fav/CS
2.			CM	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 668 amends section 849.161, Florida Statutes, which authorizes, with restrictions, amusement games or machines at specified locations. The bill:

- Provides that, in addition to activation by insertion of a coin, an amusement machine may be activated by currency, card, coupon, token, or similar device.
- Increases the maximum redemption value of points or coupons a player may receive for a single game played from 75 cents to \$5.25 and increases the maximum wholesale value of merchandise dispensed directly (e.g., “claw” machine) to 10 times that amount (\$52.50). The caps will be adjusted annually, based on changes in the consumer price index.
- Provides that amusement machines may be placed not only in arcades or truck stops (as allowed under current law), but also in certain bowling centers, hotels, or restaurants. Machines that dispense merchandise directly (e.g., “claw” machines) may be placed in those locations or on the premises of certain retailers.

## II. Present Situation:

In general, gambling is illegal in Florida.<sup>1</sup> Chapter 849, F.S., prohibits keeping a gambling house,<sup>2</sup> running a lottery,<sup>3</sup> or the manufacture, sale, lease, play, or possession of slot machines,<sup>4</sup> but authorizes, with conditions, penny-ante games,<sup>5</sup> bingo,<sup>6</sup> charitable drawings,<sup>7</sup> game promotions (sweepstakes),<sup>8</sup> bowling tournaments,<sup>9</sup> and amusement games and machines.<sup>10</sup>

Section 849.161, F.S., provides that gambling laws do not prohibit amusement games or machines that:

- Operate by insertion of a coin;
- May entitle a player, by application of skill, to receive points or coupons—the cost value of which does not exceed 75 cents on any game played—that may be exchanged onsite for merchandise; and
- Are located at an arcade amusement center with at least 50 coin-operated amusement games or machines or at a truck stop.

Current law specifically distinguishes and excludes the following from the exemption for amusement games or machines:

- Casino-style games in which the outcome is determined by factors unpredictable by the player (s. 849.161(1)(a), F.S.);
- Games in which the player does not control the outcome through skill (s. 849.161(1)(a), F.S.);
- Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (s. 849.161(4), F.S.);<sup>11</sup> or
- Video poker games or any other game or machine that may be construed as a gambling device under Florida law (s. 849.161(4), F.S.).

## III. Effect of Proposed Changes:

The bill amends s. 849.161, F.S. It updates the definition “amusement games or machines” to include not only coin-operated machines, but also machines activated by insertion of currency, cards, coupons, slugs, tokens, or similar devices. The definition keeps the current law provision

<sup>1</sup> Section 849.08, F.S.

<sup>2</sup> Section 849.01, F.S.

<sup>3</sup> Section 849.09, F.S.

<sup>4</sup> Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.

<sup>5</sup> Section 849.085, F.S.

<sup>6</sup> Section 849.0931, F.S.

<sup>7</sup> Section 849.0935, F.S.

<sup>8</sup> Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

<sup>9</sup> Section 849.141, F.S.

<sup>10</sup> Section 849.161, F.S.

<sup>11</sup> Slot machines are included as gambling devices pursuant to 15 U.S.C. s. 1171, but pari-mutuel betting machinery for use at a racetrack, a coin-operated bowling alley, a shuffleboard, marble machine or pinball machine, or mechanical gun, if they are not designed and manufactured primarily for gambling, and which when operated do not deliver any money or property, or entitle a person to receive any money or property, and any so-called claw, crane, or digger machine and similar devices which are not operated by coin, are actuated by a crank, and are designed and manufactured primarily for use at carnivals or county or state fairs, are excluded pursuant to 15 U.S.C. s. 1178.

that the person playing an authorized game, by application of skill, controls the outcome. It also keeps the current law provision that amusement games or machines do not include casino-style games or “games in which the player does not control the outcome of the game through skill.” The bill expands the definition of “amusement games or machines” by repeating language from subsection (4) of the current law that authorized games do not include:

- Video poker games or any other game or machine that may be construed as a gambling device under Florida law; or
- Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (see footnote 10).

The bill moves prize restrictions out of the definition of “amusement games or machines” and into substantive provisions of law (specifically, subsections (5), (6), and (7)).

The bill amends the definition of “game played” to incorporate the new ways of activating a machine that are described in the updated definition of “amusement game or machine” (i.e., “by the insertion of currency, or a coin, card, coupon, slug, token, or similar device”).

The bill amends the definition of “merchandise” to specifically exclude not only (1) cash equivalents and (2) alcoholic beverages, but also (3) cards, tokens, or similar devices that can be used to activate a game, and (4) points or coupons—from a “direct merchandise” machine, for example—in excess of the limit that otherwise applies to points or coupons that may be redeemed onsite for other merchandise.

Subsection (2) keeps the current law provision that amusement games operated in conformance with s. 849.161, F.S., are exempt from the general prohibitions against gambling in ch. 849, F.S. Subsection (3) keeps the current law provision that the exemption applies only to machines that operated for entertainment of the public as bona fide amusement games.

Subsection (4) reiterates that the exemption for amusement games or machines does not authorize (1) casino-style games; (2) games in which the player does not control the outcome of the game through skill; (3) video poker games or any other game or machine that may be construed as a gambling device under Florida law; or (4) any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (see footnote 10). These distinctions and exclusions also appear in the definition of “amusement games or machines.”

**Free replays**—Subsection (5) updates language in current law that authorizes an amusement game or machine from which a person, by application of skill, may win replays, subject to the restrictions in current law that the game or machine cannot accumulate more than 15 free replays or make a permanent record of free replays are not changed.

**Redeemable points or coupons**— Subsection (6) updates language in current law that authorizes an amusement game or machine from which a person, by application of skill, can receive points or coupons that can be redeemed onsite for merchandise, subject to the following conditions:

- The amusement game or machine is located at an arcade amusement center or truck stop, which are the only locations allowed under current law, or at a bowling center, hotel, or restaurant;<sup>12</sup>
- Points or coupons have no value other than for redemption onsite for merchandise;
- The redemption value<sup>13</sup> of points or coupons a person receives for a single game played does not exceed the cap specified in subsection (8), which is set at \$5.25 initially and adjusted for inflation annually; and
- The redemption value of points or coupons a person receives for playing multiple games simultaneously or competing against others in a multi-player game, does not exceed the cap specified in subsection (8).

**Direct merchandise**— Subsection (7) describes amusement games or machines from which a person, by application of skill, can receive merchandise directly (e.g., “claw machines”), provided:

- The amusement game or machine is located at an arcade amusement center, truck stop, bowling center, hotel, restaurant, or on the premises of a retailer as defined in s. 212.02, F.S.; and
- The wholesale cost of the merchandise does not exceed 10 times the cap specified in subsection (8).

Subsection (8) provides that the cap on the redemption value of points or coupons is set at \$5.25 initially and adjusted for inflation annually. The bill provides that the Department of Revenue annually will adjust the cap based on the change in the Consumer Price Index for All Urban Consumers, U.S. City Average, and the new cap will take effect July 1. The adjusted cap will be published in a brochure accessible from the Department of Revenue’s website relating to sales and use tax on amusement machines.<sup>14</sup>

**Section 2** of the bill provides for an effective date of July 1, 2014.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

<sup>12</sup> The bill expands the places where an authorized amusement machine may be located to include bowling centers defined in s. 849.141, F.S., or a public lodging establishment or public food service facility licensed by the Department of Business and Professional Regulation pursuant to ch. 509, F.S.

<sup>13</sup> The bill defines “redemption value” as the imputed value of coupons or points, based on the wholesale cost of merchandise for which those coupons or points may be redeemed. *See* s. 849.161(1)(e), F.S.

<sup>14</sup> The current web address for the Department of Revenue’s publication relating to sales and use tax on amusement machines is <http://dor.myflorida.com/dor/forms/current/gt800020.pdf> (accessed March 10, 2014).

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill does not have a significant private sector impact.

C. Government Sector Impact:

This bill does not have a significant government sector impact.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

The bill allows an amusement machine to be activated by “currency or a coin, card, coupon, slug, token, or similar device.” The term “card” is not defined in s. 849.161(1), F.S., and members of the Senate Committee on Gaming discussed inserting language to specify that it does not include a debit card or a credit card.

VIII. **Statutes Affected:**

This bill substantially amends section 849.161 of the Florida Statutes.

IX. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Gaming on March 10, 2014:**

- CS/SB 668 clarifies that an amusement game or machine is one which, by application of skill, a person controls the outcome of the game.
- CS/SB 668 sets the maximum wholesale value of merchandise dispensed directly by an amusement machine (e.g., “claw” machine) at \$52.50 initially and provides for annual adjustments, based on changes in the consumer price index. SB 668 would set the maximum wholesale value of such merchandise at \$50.
- CS/SB 668 simplifies the method the Department of Revenue will apply to publish annual adjustments in limits on the redemption value of points or coupons, based on changes in the consumer price index.

- CS/SB 668 provides that amusement machines may be placed not only in arcades or truck stops, as allowed under current law, but also in certain bowling centers, hotels, or restaurants. CS/SB 668 further provides that machines that dispense merchandise directly (e.g., “claw” machines) may be placed in those locations or on the premises of certain retailers. SB 668 would eliminate the current law restriction that amusement machines may be placed only in arcades or truck stops.
- CS/SB 668 does not amend or repeal s. 849.21, F.S., which allows any person to petition for an injunction against illegal slot machines or devices. SB 668 would repeal that section.

B. Amendments:

None.

By the Committee on Gaming; and Senators Stargel and Abruzzo

584-02365-14

2014668c1

A bill to be entitled

An act relating to amusement machines; amending s. 849.161, F.S.; redefining terms; revising applicability; clarifying provisions and making technical changes; authorizing direct receipt of merchandise under certain circumstances; specifying a cap on the redemption value of points or coupons; requiring the Department of Revenue to calculate annually an adjusted cap; requiring the department to publish the amount of the adjusted cap in a brochure accessible from its website; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 849.161, Florida Statutes, is amended to read:

849.161 Amusement games or machines; ~~when chapter inapplicable.~~

(1) As used in this section, the term:

(a) "Amusement games or machines" means games which are operated only for bona fide entertainment of the general public, which are activated ~~which operate~~ by means of the insertion of currency or a coin, card, coupon, slug, token, or similar device, and which, by application of skill, ~~may entitle~~ the person playing or operating the game or machine controls the outcome of the game to receive points or coupons, the cost value of which does not exceed 75 cents on any game played, which may be exchanged for merchandise. The term does not include:

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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1. Casino-style games in which the outcome of the game is determined by factors unpredictable by the player; ~~or~~

2. Games in which the player does ~~may~~ not control the outcome of the game through skill;

3. Video poker games or any other game or machine that may be construed as a gambling device under the laws of this state;  
or

4. Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178.

(b) "Arcade amusement center" means a place of business having at least 50 ~~coin-operated~~ amusement games or machines on premises which are operated for the entertainment of the general public ~~and tourists~~ as a bona fide amusement facility.

(c) "Game played" means the event occurring from the initial activation of the amusement game or machine by the insertion of currency or a coin, card, coupon, slug, token, or similar device, until the results of play are determined without the insertion of additional currency or an additional coin, card, coupon, slug, token, or similar device, to continue play ~~payment of additional consideration.~~ Free replays do not count as separate games played ~~constitute additional consideration.~~

(d) "Merchandise" means noncash prizes, including toys and novelties. The term does not include:

1. Cash equivalents ~~or any equivalent thereof,~~ including gift cards or certificates; ~~or~~

2. Alcoholic beverages;

3. Cards, coupons, points, slugs, tokens, or similar devices that can be used to activate an amusement game or machine; or

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.



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59 4. Points or coupons that have redemption value greater  
60 than the cap calculated pursuant to subsection (8).

61 (e) "Redemption value" means the imputed value of coupons  
62 or points, based on the wholesale cost of onsite merchandise for  
63 which those coupons or points may be redeemed.

64 (f)(e) "Truck stop" means a any dealer registered pursuant  
65 to chapter 212, excluding marinas, which:

66 1. Declared its primary fuel business to be the sale of  
67 diesel fuel; and

68 2. Operates a minimum of six functional diesel fuel pumps;  
69 and

70 3. Has coin-operated amusement games or machines on  
71 premises which are operated for the entertainment of the general  
72 public and tourists as bona fide amusement games or machines.

73 (2) Nothing contained in This chapter does not shall be  
74 taken or construed to prohibit an arcade amusement center or  
75 truck stop from operating amusement games or machines operated  
76 in conformance with this section.

77 (3) This section applies only to amusement games or and  
78 machines which are operated for the entertainment of the general  
79 public and tourists as bona fide amusement games or machines.

80 (4) This section does shall not be construed to authorize:

81 (a) Casino-style games in which the outcome of the game is  
82 determined by factors unpredictable by the player;

83 (b) Games in which the player does not control the outcome  
84 of the game through skill;

85 (c) Video poker games or any other game or machine that may  
86 be construed as a gambling device under the laws of this state;

87 or

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88 (d) Any game or device defined as a gambling device in 15  
89 U.S.C. s. 1171, which requires identification of each device by  
90 permanently affixing seriatim numbering and name, trade name,  
91 and date of manufacture under s. 1173, and registration with the  
92 United States Attorney General, unless excluded from  
93 applicability of the chapter under s. 1178, or video poker games  
94 or any other game or machine that may be construed as a gambling  
95 device under Florida law.

96 (5) An amusement game or machine may entitle or enable a  
97 person, by application of skill, This section does not apply to  
98 a coin-operated game or device designed and manufactured only  
99 for bona fide amusement purposes which game or device may by  
100 application of skill entitle the player to replay the game or  
101 device without the insertion of at no additional currency or an  
102 additional coin, card, coupon, slug, token, or similar device,  
103 if cost, if the game or device:

104 (a) The amusement game or machine can accumulate and react  
105 to no more than 15 free replays;

106 (b) The amusement game or machine can be discharged of  
107 accumulated free replays only by reactivating the game or device  
108 for one additional play for such accumulated free replay; and

109 (c) The amusement game or machine cannot Can make a no  
110 permanent record, directly or indirectly, of free replays; and  
111 is not classified by the United States as a gambling device in  
112 15 U.S.C. s. 1171, which requires identification of each device  
113 by permanently affixing seriatim numbering and name, trade name,  
114 and date of manufacture under s. 1173, and registration with the  
115 United States Attorney General, unless excluded from  
116 applicability of the chapter under s. 1178. This subsection

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117 ~~shall not be construed to authorize video poker games, or any~~  
 118 ~~other game or machine that may be construed as a gambling device~~  
 119 ~~under Florida law.~~

120 (6) An amusement game or machine may entitle or enable a  
 121 person, by application of skill, to receive points or coupons  
 122 that can be redeemed onsite for merchandise, if:

123 (a) The amusement game or machine is located at an arcade  
 124 amusement center, truck stop, bowling center defined in s.  
 125 849.141, or public lodging establishment or public food service  
 126 facility licensed pursuant to chapter 509;

127 (b) Points or coupons have no value other than for  
 128 redemption onsite for merchandise;

129 (c) The redemption value of points or coupons a person  
 130 receives for a single game played does not exceed the cap  
 131 calculated pursuant to subsection (8); and

132 (d) The redemption value of points or coupons a person  
 133 receives for playing multiple games simultaneously or competing  
 134 against others in a multi-player game, does not exceed the cap  
 135 calculated pursuant to subsection (8).

136 (7) An amusement game or machine may entitle or enable a  
 137 person, by application of skill, to receive merchandise  
 138 directly, if:

139 (a) The amusement game or machine is located at an arcade  
 140 amusement center, truck stop, bowling center defined in s.  
 141 849.141, public lodging establishment or public food service  
 142 facility licensed pursuant to chapter 509, or on the premises of  
 143 a retailer as defined in s. 212.02; and

144 (b) The wholesale cost of the merchandise does not exceed  
 145 10 times the cap calculated pursuant to subsection (8).

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146 (8) The cap on the redemption value of points or coupons is  
 147 \$5.25. Beginning July 1, 2015, and annually thereafter, the  
 148 Department of Revenue shall adjust the cap by multiplying the  
 149 prior cap by 1 plus the percentage change in the Consumer Price  
 150 Index for All Urban Consumers, U.S. City Average, or a successor  
 151 index as calculated by the United States Department of Labor,  
 152 for the most recent 12-month period ending March 31, and  
 153 rounding the product to the nearest cent. The Department of  
 154 Revenue shall publish the cap, as adjusted, in a brochure  
 155 accessible from its website relating to sales and use tax on  
 156 amusement machines.

157 Section 2. This act shall take effect July 1, 2014.

**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Gaming  
**ITEM:** SB 668  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Monday, March 10, 2014  
**TIME:** 2:30 —3:30 p.m.  
**PLACE:** 110 Senate Office Building

FINAL VOTE		SENATORS	3/10/2014 1 Motion to hear Proposed Committee Substitute(457456) Montford		3/10/2014 2 PCS 457456		3/10/2014 3 Motion to report as Committee Substitute Sachs	
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Abruzzo						
X		Benacquisto						
X		Braynon						
X		Clemens						
X		Dean						
X		Galvano						
		Gardiner						
X		Latvala						
X		Lee						
X		Margolis						
X		Montford						
X		Thrasher						
X		Sachs, VICE CHAIR						
X		Richter, CHAIR						
13	0	<b>TOTALS</b>	FAV	-	RCS	-	FAV	-
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 10, 2014

Meeting Date

Topic Amusement machines

Bill Number 668  
*(if applicable)*

Name Larry Sellers

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 315 S. Calhoun St, #600

Phone \_\_\_\_\_

Tallahassee, FL 32301  
City State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Dave & Buster's

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

Topic \_\_\_\_\_

Bill Number 600  
*(if applicable)*

Name BRIAN NESLOND

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title PRESIDENT - FAMILY FUN CENTER

Address 4825 SOUTH FLORIDA AVE

Phone 863-489-7858

Street

LAKELAND

City

FL

State

33813

Zip

E-mail BRIAN@FFCLAKELAND.COM

Speaking:  For  Against  Information

Representing FAMILY FUN CENTER / AMOAF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/10/14

Meeting Date

Topic Amusement Games

Bill Number 668 (if applicable)

Name DANIEL PIZZI

Amendment Barcode (if applicable)

Job Title DIRECTOR of OPERATIONS

Address 820 CAPITAL Circle NE

Phone

Street

TALLAHASSEE, FL 32301

City

State

Zip

E-mail dpizzi@bowlsec.com

Speaking: [ ] For [ ] Against [ ] Information Waive in support

Representing Bowling Centers Association of Florida

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/10/14

Meeting Date

Topic Amusement Machines

Bill Number 668  
*(if applicable)*

Name MARK BRISSON

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title DIRECTOR OF MARKETING

Address 5700 FUN SPOT WAY  
*Street*

Phone 407-363-3867 x110

ORLANDO FL 32817  
*City State Zip*

E-mail mbrisson@Fun-Spot.com

Speaking:  For  Against  Information

Representing FUN SPOT ATTRACTIONS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/20/11)

*[Handwritten mark]*

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-10-14

Meeting Date

Topic 9668

Bill Number 9668  
*(if applicable)*

Name MIKE BARNES

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title OWNER

Address 159 Bay Mar Dr

Phone 515 490 3000

H Myrtle Beach FL 33931  
*Street City State Zip*

E-mail MIKE @ Barnes

Speaking:  For  Against  Information

properties.com

Representing ZOOMERS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/20/11)



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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-10-14

Meeting Date

to

Topic <sup>Relation</sup> Amusement Machines

Bill Number SB 668

(if applicable)

Name Michael Blore

Amendment Barcode

(if applicable)

Job Title General Manager

Address 3011 N. Ocean Dr #6

Phone 786-474-7144

Street

Hollywood

FL

33019

City

State

Zip

E-mail michael.blore@yahoo.com

Speaking:  For  Against  Information

Representing Palace Entertainment - Boomers

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-10-14  
Meeting Date

Topic RELATING TO AMUSEMENT MACHINES Bill Number 668  
(if applicable)

Name BILL LUPFER Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title PRESIDENT

Address 1114 N. GADSDEN ST. Phone 850 222-2885-

Street

TALLAHASSEE FL 32303

City

State

Zip

E-mail LUPFER@

FLORIDIANATTRACTIONS.ORG

Speaking:  For  Against  Information

Representing FL ATTRACTIONS ASSOCIATION

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10 March 2014

Meeting Date

Topic Relating to Amusement Machines

Bill Number SD668  
*(if applicable)*

Name Stephanie See

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Director, Safety + Advocacy

Address 1448 Dute Street

Phone 703 299 5755

Street

Alexandria, Va. 22314

City

State

Zip

E-mail ssee@iaapa.org

Speaking:  For  Against  Information

Representing International Association of Amusement Parks + Attractions

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-10-14

Meeting Date

Topic AMUSEMENT MACHINES

Bill Number 668  
*(if applicable)*

Name RICHARD TURNER

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title V.P. Government Relations

Address 230 S. Adams St

Phone 850. 224. 2250

Street

Tallahassee FL 32301

City

State

Zip

E-mail rturner@frla.org

Speaking:  For  Against  Information

Representing FLORIDA RESTAURANT & LODGING ASSOC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-10-14

Meeting Date

Topic \_\_\_\_\_

Bill Number 688 + PCS  
*(if applicable)*

Name Marc Dunbar

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address PO Box 351

Phone 933-8500

Tallahassee FL 32301  
*Street City State Zip*

E-mail mdunbar@comcast.net

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Gaming

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BILL: PCS/SB 668 (457456)

INTRODUCER: Committee on Gaming

SUBJECT: Amusement Machines

DATE: March 7, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Guthrie	GM	<b>Pre-meeting</b>
2.			CM	
3.			RC	

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**I. Summary:**

PCS/SB 668 amends section 849.161, Florida Statutes, which authorizes, with restrictions, amusement games or machines at specified locations. The bill:

- Provides that, in addition to activation by insertion of a coin, an amusement machine may be activated by currency, card, coupon, token, or similar device.
- Increases the maximum redemption value of points or coupons a player may receive for a single game played from 75 cents to \$5.25 and increases the maximum wholesale value of merchandise dispensed directly (e.g., “claw” machine) to 10 times that amount (\$52.50). The caps will be adjusted annually, based on changes in the consumer price index.
- Provides that amusement machines may be placed not only in arcades or truck stops (as allowed under current law), but also in certain bowling centers, hotels, or restaurants. Machines that dispense merchandise directly (e.g., “claw” machines) may be placed in those locations or on the premises of certain retailers.

**II. Present Situation:**

In general, gambling is illegal in Florida.<sup>1</sup> Chapter 849, F.S., prohibits keeping a gambling house,<sup>2</sup> running a lottery,<sup>3</sup> or the manufacture, sale, lease, play, or possession of slot machines,<sup>4</sup>

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<sup>1</sup> Section 849.08, F.S.

<sup>2</sup> Section 849.01, F.S.

<sup>3</sup> Section 849.09, F.S.

<sup>4</sup> Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.

but authorizes, with conditions, penny-ante games,<sup>5</sup> bingo,<sup>6</sup> charitable drawings,<sup>7</sup> game promotions (sweepstakes),<sup>8</sup> bowling tournaments,<sup>9</sup> and amusement games and machines.<sup>10</sup>

Section 849.161, F.S., provides that gambling laws do not prohibit amusement games or machines that:

- Operate by insertion of a coin;
- May entitle a player, by application of skill, to receive points or coupons—the cost value of which does not exceed 75 cents on any game played—that may be exchanged onsite for merchandise; and
- Are located at an arcade amusement center with at least 50 coin-operated amusement games or machines or at a truck stop.

Current law specifically distinguishes and excludes the following from the exemption for amusement games or machines:

- Casino-style games in which the outcome is determined by factors unpredictable by the player (s. 849.161(1)(a), F.S.);
- Games in which the player does not control the outcome through skill (s. 849.161(1)(a), F.S.);
- Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (s. 849.161(4), F.S.);<sup>11</sup> or
- Video poker games or any other game or machine that may be construed as a gambling device under Florida law (s. 849.161(4), F.S.).

### III. Effect of Proposed Changes:

The bill amends s. 849.161, F.S. It updates the definition “amusement games or machines” to include not only coin-operated machines, but also machines activated by insertion of currency, cards, coupons, slugs, tokens, or similar devices. The definition keeps the current law provision that the person playing an authorized game, by application of skill, controls the outcome. It also keeps the current law provision that amusement games or machines do not include casino-style games or “games in which the player does not control the outcome of the game through skill.” The bill expands the definition of “amusement games or machines” by repeating language from subsection (4) of the current law that authorized games do not include:

- Video poker games or any other game or machine that may be construed as a gambling device under Florida law; or

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<sup>5</sup> Section 849.085, F.S.

<sup>6</sup> Section 849.0931, F.S.

<sup>7</sup> Section 849.0935, F.S.

<sup>8</sup> Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

<sup>9</sup> Section 849.141, F.S.

<sup>10</sup> Section 849.161, F.S.

<sup>11</sup> Slot machines are included as gambling devices pursuant to 15 U.S.C. s. 1171, but pari-mutuel betting machinery for use at a racetrack, a coin-operated bowling alley, a shuffleboard, marble machine or pinball machine, or mechanical gun, if they are not designed and manufactured primarily for gambling, and which when operated do not deliver any money or property, or entitle a person to receive any money or property, and any so-called claw, crane, or digger machine and similar devices which are not operated by coin, are actuated by a crank, and are designed and manufactured primarily for use at carnivals or county or state fairs, are excluded pursuant to 15 U.S.C. s. 1178.

- Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (see footnote 10).

The bill moves prize restrictions out of the definition of “amusement games or machines” and into substantive provisions of law (specifically, subsections (5), (6), and (7)).

The bill amends the definition of “game played” to incorporate the new ways of activating a machine that are described in the updated definition of “amusement game or machine” (i.e., “by the insertion of currency, or a coin, card, coupon, slug, token, or similar device”).

The bill amends the definition of “merchandise” to specifically exclude not only (1) cash equivalents and (2) alcoholic beverages, but also (3) cards, tokens, or similar devices that can be used to activate a game, and (4) points or coupons—from a “direct merchandise” machine, for example—in excess of the limit that otherwise applies to points or coupons that may be redeemed onsite for other merchandise.

Subsection (2) keeps the current law provision that amusement games operated in conformance with s. 849.161, F.S., are exempt from the general prohibitions against gambling in ch. 849, F.S. Subsection (3) keeps the current law provision that the exemption applies only to machines that operated for entertainment of the public as bona fide amusement games.

Subsection (4) reiterates that the exemption for amusement games or machines does not authorize (1) casino-style games; (2) games in which the player does not control the outcome of the game through skill; (3) video poker games or any other game or machine that may be construed as a gambling device under Florida law; or (4) any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (see footnote 10). These distinctions and exclusions also appear in the definition of “amusement games or machines.”

**Free replays**—Subsection (5) updates language in current law that authorizes an amusement game or machine from which a person, by application of skill, may win replays, subject to the restrictions in current law that the game or machine cannot accumulate more than 15 free replays or make a permanent record of free replays are not changed.

**Redeemable points or coupons**— Subsection (6) updates language in current law that authorizes an amusement game or machine from which a person, by application of skill, can receive points or coupons that can be redeemed onsite for merchandise, subject to the following conditions:

- The amusement game or machine is located at an arcade amusement center or truck stop, which are the only locations allowed under current law, or at a bowling center, hotel, or restaurant;<sup>12</sup>
- Points or coupons have no value other than for redemption onsite for merchandise;

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<sup>12</sup> The bill expands the places where an authorized amusement machine may be located to include bowling centers defined in s. 849.141, F.S., or a public lodging establishment or public food service facility licensed by the Department of Business and Professional Regulation pursuant to ch. 509, F.S.



- The redemption value<sup>13</sup> of points or coupons a person receives for a single game played does not exceed the cap specified in subsection (8), which is set at \$5.25 initially and adjusted for inflation annually; and
- The redemption value of points or coupons a person receives for playing multiple games simultaneously or competing against others in a multi-player game, does not exceed the cap specified in subsection (8).

**Direct merchandise**— Subsection (7) describes amusement games or machines from which a person, by application of skill, can receive merchandise directly (e.g., “claw machines”), provided:

- The amusement game or machine is located at an arcade amusement center, truck stop, bowling center, hotel, restaurant, or on the premises of a retailer as defined in s. 212.02; and
- The wholesale cost of the merchandise does not exceed 10 times the cap specified in subsection (8).

Subsection (8) provides that the cap on the redemption value of points or coupons is set at \$5.25 initially and adjusted for inflation annually. The bill provides that the Department of Revenue annually will adjust the cap based on the change in the Consumer Price Index for All Urban Consumers, U.S. City Average, and the new cap will take effect July 1. The adjusted cap will be published in a brochure accessible from the Department of Revenue’s website relating to sales and use tax on amusement machines.<sup>14</sup>

**Section 2** of the bill provides for an effective date of July 1, 2014.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

<sup>13</sup> The bill defines “redemption value” as the imputed value of coupons or points, based on the wholesale cost of merchandise for which those coupons or points may be redeemed. *See* s. 849.161(1)(e), F.S.

<sup>14</sup> The current web address for the Department of Revenue’s publication relating to sales and use tax on amusement machines is <http://dor.myflorida.com/dor/forms/current/gt800020.pdf> (accessed March 8, 2014).

**B. Private Sector Impact:**

This bill does not have a significant private sector impact.

**C. Government Sector Impact:**

This bill does not have a significant government sector impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 849.161 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.



457456

584-02148B-14

Proposed Committee Substitute by the Committee on Gaming

A bill to be entitled

An act relating to amusement machines; amending s. 849.161, F.S.; redefining terms; revising applicability; clarifying provisions and making technical changes; authorizing direct receipt of merchandise under certain circumstances; specifying a cap on the redemption value of points or coupons; requiring the Department of Revenue to calculate annually an adjusted cap; requiring the department to publish the amount of the adjusted cap in a brochure accessible from its website; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 849.161, Florida Statutes, is amended to read:

849.161 Amusement games or machines, ~~when chapter inapplicable.~~

(1) As used in this section, the term:

(a) "Amusement games or machines" means games which are operated only for bona fide entertainment of the general public, which are activated which operate by means of the insertion of currency or a coin, card, coupon, slug, token, or similar device, and which, by application of skill, may entitle the person playing or operating the game or machine controls the outcome of the game to receive points or coupons, the cost value of which does not exceed 75 cents on any game played, which may



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~~be exchanged for merchandise.~~ The term does not include:

1. Casino-style games in which the outcome of the game is determined by factors unpredictable by the player; ~~or~~

2. Games in which the player does may not control the outcome of the game through skill;

3. Video poker games or any other game or machine that may be construed as a gambling device under the laws of this state;  
or

4. Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178.

(b) "Arcade amusement center" means a place of business having at least 50 ~~coin-operated~~ amusement games or machines on premises which are operated for the entertainment of the general public ~~and tourists~~ as a bona fide amusement facility.

(c) "Game played" means the event occurring from the ~~initial~~ activation of the amusement game or machine by the insertion of currency or a coin, card, coupon, slug, token, or similar device, until the results of play are determined without the insertion of additional currency or an additional coin, card, coupon, slug, token, or similar device, to continue play ~~payment of additional consideration.~~ Free replays do not count as separate games played ~~constitute additional consideration.~~

(d) "Merchandise" means noncash prizes, including toys and novelties. The term does not include:

1. Cash equivalents ~~or any equivalent thereof,~~ including gift cards or certificates; ~~or~~

2. Alcoholic beverages;

3. Cards, coupons, points, slugs, tokens, or similar devices that can be used to activate an amusement game or



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58 machine; or

59 4. Points or coupons that have redemption value greater  
60 than the cap calculated pursuant to subsection (8).

61 (e) "Redemption value" means the imputed value of coupons  
62 or points, based on the wholesale cost of onsite merchandise for  
63 which those coupons or points may be redeemed.

64 (f)(e) "Truck stop" means a any dealer registered pursuant  
65 to chapter 212, excluding marinas, which:

66 1. Declared its primary fuel business to be the sale of  
67 diesel fuel; and

68 2. Operates a minimum of six functional diesel fuel pumps;  
69 and

70 3. Has coin-operated amusement games or machines on  
71 premises which are operated for the entertainment of the general  
72 public and tourists as bona fide amusement games or machines.

73 (2) Nothing contained in This chapter does not shall be  
74 taken or construed to prohibit an arcade amusement center or  
75 truck stop from operating amusement games or machines operated  
76 in conformance with this section.

77 (3) This section applies only to amusement games or and  
78 machines which are operated for the entertainment of the general  
79 public and tourists as bona fide amusement games or machines.

80 (4) This section does shall not be construed to authorize:

81 (a) Casino-style games in which the outcome of the game is  
82 determined by factors unpredictable by the player;

83 (b) Games in which the player does not control the outcome  
84 of the game through skill;

85 (c) Video poker games or any other game or machine that may  
86 be construed as a gambling device under the laws of this state;



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87 or

88 (d) Any game or device defined as a gambling device in 15  
89 U.S.C. s. 1171, which requires identification of each device by  
90 permanently affixing seriatim numbering and name, trade name,  
91 and date of manufacture under s. 1173, and registration with the  
92 United States Attorney General, unless excluded from  
93 applicability of the chapter under s. 1178, or video poker games  
94 or any other game or machine that may be construed as a gambling  
95 device under Florida law.

96 (5) An amusement game or machine may entitle or enable a  
97 person, by application of skill, This section does not apply to  
98 a coin-operated game or device designed and manufactured only  
99 for bona fide amusement purposes which game or device may by  
100 application of skill entitle the player to replay the game or  
101 device without the insertion of at ne additional currency or an  
102 additional coin, card, coupon, slug, token, or similar device,  
103 if east, if the game or device:

104 (a) The amusement game or machine can accumulate and react  
105 to no more than 15 free replays;

106 (b) The amusement game or machine can be discharged of  
107 accumulated free replays only by reactivating the game or device  
108 for one additional play for such accumulated free replay; and

109 (c) The amusement game or machine cannot Can make a ne  
110 permanent record, directly or indirectly, of free replays; and  
111 is not classified by the United States as a gambling device in  
112 15 U.S.C. s. 1171, which requires identification of each device  
113 by permanently affixing seriatim numbering and name, trade name,  
114 and date of manufacture under s. 1173, and registration with the  
115 United States Attorney General, unless excluded from



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116 ~~applicability of the chapter under s. 1178. This subsection~~  
117 ~~shall not be construed to authorize video poker games, or any~~  
118 ~~other game or machine that may be construed as a gambling device~~  
119 ~~under Florida law.~~

120 (6) An amusement game or machine may entitle or enable a  
121 person, by application of skill, to receive points or coupons  
122 that can be redeemed onsite for merchandise, if:

123 (a) The amusement game or machine is located at an arcade  
124 amusement center, truck stop, bowling center defined in s.  
125 849.141, or public lodging establishment or public food service  
126 facility licensed pursuant to chapter 509;

127 (b) Points or coupons have no value other than for  
128 redemption onsite for merchandise;

129 (c) The redemption value of points or coupons a person  
130 receives for a single game played does not exceed the cap  
131 calculated pursuant to subsection (8); and

132 (d) The redemption value of points or coupons a person  
133 receives for playing multiple games simultaneously or competing  
134 against others in a multi-player game, does not exceed the cap  
135 calculated pursuant to subsection (8).

136 (7) An amusement game or machine may entitle or enable a  
137 person, by application of skill, to receive merchandise  
138 directly, if:

139 (a) The amusement game or machine is located at an arcade  
140 amusement center, truck stop, bowling center defined in s.  
141 849.141, public lodging establishment or public food service  
142 facility licensed pursuant to chapter 509, or on the premises of  
143 a retailer as defined in s. 212.02; and

144 (b) The wholesale cost of the merchandise does not exceed



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145 10 times the cap calculated pursuant to subsection (8).

146 (8) The cap on the redemption value of points or coupons is  
147 \$5.25. Beginning July 1, 2015, and annually thereafter, the  
148 Department of Revenue shall adjust the cap by multiplying the  
149 prior cap by 1 plus the percentage change in the Consumer Price  
150 Index for All Urban Consumers, U.S. City Average, or a successor  
151 index as calculated by the United States Department of Labor,  
152 for the most recent 12-month period ending March 31, and  
153 rounding the product to the nearest cent. The Department of  
154 Revenue shall publish the cap, as adjusted, in a brochure  
155 accessible from its website relating to sales and use tax on  
156 amusement machines.

157 Section 2. This act shall take effect July 1, 2014.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Gaming

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BILL: SB 668

INTRODUCER: Senator Stargel

SUBJECT: Amusement Machines

DATE: March 7, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Guthrie</u>	<u>GM</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 668 amends section 849.161, Florida Statutes, which authorizes, with restrictions, amusement games or machines at specified locations. The bill:

- Provides that, in addition to activation by insertion of a coin, an amusement machine may be activated by currency, card, coupon, token, or similar device.
- Increases the maximum redemption value of points or coupons a player may receive for a single game played from 75 cents to \$5.25 and increases the maximum wholesale value of merchandise dispensed directly (e.g., “claw” machine) to \$50. The caps will be adjusted annually, based on changes in the consumer price index.
- Eliminates the current law restriction that amusement machines may be placed only in arcades or truck stops.
- Repeals a current law provision that allows any person to petition for an injunction against illegal slot machines or devices.

**II. Present Situation:**

In general, gambling is illegal in Florida.<sup>1</sup> Chapter 849, F.S., prohibits keeping a gambling house,<sup>2</sup> running a lottery,<sup>3</sup> or the manufacture, sale, lease, play, or possession of slot machines,<sup>4</sup>

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<sup>1</sup> Section 849.08, F.S.

<sup>2</sup> Section 849.01, F.S.

<sup>3</sup> Section 849.09, F.S.

<sup>4</sup> Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.

but authorizes, with conditions, penny-ante games,<sup>5</sup> bingo,<sup>6</sup> charitable drawings,<sup>7</sup> game promotions (sweepstakes),<sup>8</sup> bowling tournaments,<sup>9</sup> and amusement games and machines.<sup>10</sup>

Section 849.161, F.S., provides that gambling laws do not prohibit amusement games or machines that:

- Operate by insertion of a coin;
- May entitle a player, by application of skill, to receive points or coupons—the cost value of which does not exceed 75 cents on any game played—that may be exchanged onsite for merchandise; and
- Are located at an arcade amusement center with at least 50 coin-operated amusement games or machines or at a truck stop;

Current law specifically distinguishes and excludes the following from the exemption for amusement games or machines:

- Casino-style games in which the outcome is determined by factors unpredictable by the player (s. 849.161(1)(a), F.S.);
- Games in which the player does not control the outcome through skill (s. 849.161(1)(a), F.S.);
- Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (s. 849.161(4), F.S.);<sup>11</sup> or
- Video poker games or any other game or machine that may be construed as a gambling device under Florida law (s. 849.161(4), F.S.).

Section 849.21, F.S., provides that any person may petition in circuit court for a writ of injunction against a nuisance created through the use, manufacture, ownership, storage, possession, sale, lease, transport or operation of a “slot machines or device” outside of eligible facilities.<sup>12</sup> Current law also provides that no bond is required when petitioning for a temporary injunction and that the judge may issue a restraining order to prevent removal or interference with the offending equipment. After the 2013 Regular Session, third parties cited s. 849.21, F.S.,

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<sup>5</sup> Section 849.085, F.S.

<sup>6</sup> Section 849.0931, F.S.

<sup>7</sup> Section 849.0935, F.S.

<sup>8</sup> Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

<sup>9</sup> Section 849.141, F.S.

<sup>10</sup> Section 849.161, F.S.

<sup>11</sup> Slot machines are included as gambling devices pursuant to 15 U.S.C. s. 1171, but pari-mutuel betting machinery for use at a racetrack, a coin-operated bowling alley, a shuffleboard, marble machine or pinball machine, or mechanical gun, if they are not designed and manufactured primarily for gambling, and which when operated do not deliver any money or property, or entitle a person to receive any money or property, and any so-called claw, crane, or digger machine and similar devices which are not operated by coin, are actuated by a crank, and are designed and manufactured primarily for use at carnivals or county or state fairs, are excluded pursuant to 15 U.S.C. s. 1178.

<sup>12</sup> See ss. 849.15 to 849.23, F.S.; however, such activities respecting slot machines located in or destined for certain eligible pari-mutuel facilities defined in ss. 551.102, F.S., or the facilities of manufacturers or distributors as provided in s. 551.109(2)(a), F.S., are not prohibited nuisances, and are regulated under ch. 551, F.S.

in petitions for injunctions against amusement arcades, including Chuck E. Cheese's, Dave & Buster's, and Festival Fun Parks (Boomers!).<sup>13</sup> The three cases are pending.

### III. Effect of Proposed Changes:

**Section 1** of the bill amends the definition "amusement machine" as defined in s. 849.161, F.S. The bill expands the method of activation of amusement machines from coin operation only, to also allow the insertion of currency, slugs, tokens, coupons, cards, or similar devices as authorized methods to activate authorized amusement machines. The bill:

- Clarifies that a person playing or operating an amusement machine may directly receive merchandise, or points or coupons that may be exchanged on site for merchandise.
- Amends the limit on the value of points or coupons that may be exchanged on site for merchandise, from 75 cents per game played to \$5.25 or 15 times the amount charged for a game, whichever is less. The bill states that the player may accumulate and carry this value across multiple machines and games played. The bill provides that prize payable for the play of multiple games is \$5.25, the same as the maximum for a single game. The bill further provides that when multiple players compete or play simultaneously, the maximum value payable to a player is \$5.25; the value may not be multiplied by the number of participating players.
- Provides that the wholesale value of merchandise dispensed directly from an amusement machine may not exceed \$50.
- Eliminates the requirement that amusement machines be located at arcade amusement centers with a minimum of 50 machines on premises) or at truck stops.
- Provides that beginning on September 30, 2015, the Department of Revenue annually calculate an adjustment to the per-game cost of merchandise (initially set at \$5.25) by the rate of inflation for the 12-month period before September 1 of that year. The department is directed to use the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for the South Region, or a successor index from the U.S. Department of Labor. By October 15 of each year, the department must publish the adjusted amount and its January 1 effective date on its Internet home page.

**Section 2** of the bill repeals s 849.21, F.S., regarding third-party civil actions against illegal slot machines or devices.

**Section 3** of the bill provides that it is effective upon becoming a law.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>13</sup> *Nebb v. CEC Entertainment, Inc., d/b/a Chuck E. Cheese*, Case No. CACE-13-024356 (03), Broward County Circuit Court; *DeVarona v. Dave & Buster's*, Case No. CACE-13-016547 (09), Broward County Circuit Court; *Forst v Festival Fun Parks, LLC, d/b/a Boomers*, Case No. 2013 CA 010200 AB, Palm Beach County Circuit Court.



B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill does not have a significant private sector impact.

C. Government Sector Impact:

This bill does not have a significant government sector impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 849.161 of the Florida Statutes.

This bill repeals section 849.21 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Stargel

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A bill to be entitled

An act relating to amusement machines; amending s. 849.161, F.S.; redefining terms; revising applicability; prohibiting merchandise from exceeding a specified value; requiring the Department of Revenue to calculate annually an adjusted cap on the per-game cost of merchandise; requiring the department to publish the amount and effective date of the adjusted cap by a specified date; repealing s. 849.21, F.S., relating to an injunction to restrain violation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 849.161, Florida Statutes, is amended to read:

849.161 Amusement ~~games or~~ machines; when chapter inapplicable.—

(1) As used in this section, the term:

(a) "Amusement machine games or machines" means a machine activated by games which operate by means of the insertion of a coin, currency, slug, token, coupon, card, or similar device that enables a person to play a game in and which the player, by application of skill, may directly entitle the person playing or operating the game or machine to receive merchandise or points or coupons that may be exchanged on site for merchandise, the cost value of which does not exceed 75 cents on any game played, which may be exchanged for merchandise. The term does not include casino-style games in which the outcome is determined by

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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factors unpredictable by the player or ~~games~~ in which the player does may not control the outcome of the game through skill.

~~(b) "Arcade amusement center" means a place of business having at least 50 coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists as a bona fide amusement facility.~~

~~(b)(c)~~ "Game played" means the event occurring from the initial activation of the machine until the results of play are determined without payment of additional consideration. Free replays do not constitute additional consideration.

~~(c)(d)~~ "Merchandise" means noncash prizes, including toys and novelties. The term does not include cash or any equivalent thereof, including gift cards or certificates, or alcoholic beverages.

~~(e) "Truck stop" means any dealer registered pursuant to chapter 212, excluding marinas, which:~~

~~1. Declared its primary fuel business to be the sale of diesel fuel;~~

~~2. Operates a minimum of six functional diesel fuel pumps; and~~

~~3. Has coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists as bona fide amusement games or machines.~~

~~(2) Nothing contained in This chapter does not shall be taken or construed to prohibit an arcade amusement center or truck stop from operating amusement games or machines in conformance with this section.~~

(3) This section applies only to ~~games and~~ machines that ~~which~~ are operated for the entertainment of the general public

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59 and tourists as bona fide amusement ~~games or machines.~~

60 (4) This section ~~does shall not be construed to authorize;~~

61 (a) A any game or device defined as a gambling device in 15  
 62 U.S.C. s. 1171, which requires identification of each device by  
 63 permanently affixing seriatim numbering and name, trade name,  
 64 and date of manufacture under s. 1173, and registration with the  
 65 United States Attorney General, unless such game or device is  
 66 excluded from applicability of the chapter under s. 1178; or

67 (b) A device offering video poker games or any other  
 68 casino-style games game or machine that may be construed as a  
 69 gambling device under Florida law.

70 (5) This ~~chapter section~~ does not ~~prohibit a apply to a~~  
 71 ~~coin-operated~~ game or device designed and manufactured only for  
 72 bona fide amusement purposes which ~~game or device may,~~ by  
 73 application of skill, entitle the player to replay the game or  
 74 device at no additional cost, if the game or device:

75 (a) Can accumulate and react to no more than 15 free  
 76 replays;

77 (b) Can be discharged of accumulated free replays only by  
 78 reactivating the game or device for one additional play for such  
 79 accumulated free replay;

80 (c) Can make no permanent record, directly or indirectly,  
 81 of free replays; and

82 (d) Is not classified by the United States as a gambling  
 83 device in 15 U.S.C. s. 1171, which requires identification of  
 84 each device by permanently affixing seriatim numbering and name,  
 85 trade name, and date of manufacture under s. 1173, and  
 86 registration with the United States Attorney General, unless  
 87 excluded from applicability of the chapter under s. 1178. This

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88 ~~subsection shall not be construed to authorize video poker~~  
 89 ~~games, or any other game or machine that may be construed as a~~  
 90 ~~gambling device under Florida law.~~

91 (6) (a) If an amusement machine provides the player with  
 92 points or coupons that may be exchanged on site for merchandise,  
 93 the wholesale cost of the merchandise may not exceed \$5.25 or 15  
 94 times the amount charged for a game played, whichever is less,  
 95 and this value may be accumulated and carried forward across  
 96 multiple machines and games played. For an amusement machine  
 97 that directly provides the player with merchandise, the  
 98 wholesale cost of the merchandise may not exceed \$50.

99 (b) If an amusement machine allows a player to activate the  
 100 machine and play multiple games at the same time, those multiple  
 101 games shall be considered a single game played for the purposes  
 102 of the cap established under paragraph (a). If an amusement  
 103 machine allows multiple players to compete against each other or  
 104 play simultaneously in a game, the cap established in paragraph  
 105 (a) may not be multiplied by the number of players but shall be  
 106 applied to each player as if that player had played separately  
 107 in an individual game.

108 (c) Beginning September 30, 2015, and annually on September  
 109 30 thereafter, the Department of Revenue shall calculate an  
 110 adjusted cap on the per-game cost of merchandise described in  
 111 paragraph (a), increasing the cap by the rate of inflation for  
 112 the 12 months before September 1. In calculating the adjusted  
 113 cap, the department shall use the Consumer Price Index for Urban  
 114 Wage Earners and Clerical Workers, not seasonally adjusted, for  
 115 the South Region or a successor index as calculated by the  
 116 United States Department of Labor. Each adjusted cap shall take

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117 effect on the following January 1, with the initial adjusted cap  
118 to take effect on January 1, 2016. The department shall publish  
119 the amount of the adjusted cap and its effective date on its  
120 Internet home page by October 15 of each year.

121 Section 2. Section 849.21, Florida Statutes, is repealed.

122 Section 3. This act shall take effect upon becoming a law.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR KELLI STARGEL**  
15th District

**COMMITTEES:**  
Regulated Industries, *Chair*  
Appropriations Subcommittee on General  
Government  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Commerce and Tourism  
Community Affairs  
Education

**JOINT COMMITTEE:**  
Joint Committee on Public Counsel Oversight

February 3, 2014

The Honorable Garrett Richter  
Senate Gaming Committee, Chair  
103 Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Dear Chairman Richter:

I am respectfully requesting that SB 668, related to *Amusement Machines*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel  
Senator, District 15

Cc: John Guthrie/ Staff Director  
Lynn Koon/ AA

REPLY TO:

- 902 S. Florida Avenue, Suite 102, Lakeland, Florida 33803
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# CourtSmart Tag Report

**Room:** EL 110

**Caption:** Senate Gaming Committee

**Case:**

**Judge:**

**Type:**

**Started:** 3/10/2014 2:35:51 PM

**Ends:** 3/10/2014 3:22:25 PM

**Length:** 00:46:35

2:35:53 PM Meeting called to order  
2:36:05 PM Roll call  
2:36:30 PM Opening comments from the Chair, Senator Richter  
2:39:45 PM SB 668 - Senator Stargel  
2:40:19 PM PCS #457456  
2:40:42 PM Senate Stargel presenting the bill  
2:44:12 PM Motion by Senator Montford  
2:44:25 PM Sen. Benacquisto questioning  
2:45:02 PM Senator Lee Questioning  
2:47:33 PM Senator Stargel responding  
2:48:30 PM Senator Sachs questioning  
2:51:07 PM Senator Stargel responding  
2:52:37 PM Senator Richter commenting  
2:53:03 PM Senator Latvala commenting and questioning  
2:54:12 PM Senator Stargel responding  
2:55:33 PM Senator Dean questioning  
2:57:34 PM Senator Galvano questioning  
2:58:27 PM Senator Margolis questioning  
2:58:58 PM Senator Stargel responding  
3:00:58 PM Senator Richter replying  
3:01:34 PM Senator Montford commenting and questioning  
3:02:28 PM Senator Stargel responding  
3:02:53 PM PCS 457456 adopted  
3:03:23 PM Larry Seller, Dave and Busters  
3:05:03 PM Brian Nesland, Family Fun Center  
3:05:55 PM Marc Dunbar  
3:06:36 PM Mark Grisson, Fun Spot Attractions  
3:09:16 PM Mike Barsed, Zoomers  
3:09:27 PM Michael Blare, Palace Entertainment  
3:10:43 PM Marc Dunbar  
3:19:59 PM Senator Richter commenting  
3:20:18 PM Senator Stargel to close on the bill  
3:21:36 PM CS/SB 668 - Passed  
3:22:11 PM Meeting adjourned