

By Senator Bennett

21-01531-10

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1                   A bill to be entitled  
2           An act relating to amusement arcades; creating s.  
3           849.162, F.S.; providing for the regulation and  
4           licensing of amusement arcades by the Department of  
5           Agriculture and Consumer Services; providing  
6           definitions; providing exemptions for certain  
7           businesses; providing qualifications and for the  
8           issuance of licenses; prohibiting local governments  
9           from issuing local licenses or permits to unlicensed  
10          persons; prohibiting certain acts and providing  
11          penalties for violations; providing for a gross  
12          receipts tax; providing recordkeeping requirements;  
13          authorizing the department to adopt rules; prohibiting  
14          certain activities by licensees; providing an  
15          effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

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19           Section 1. Section 849.162, Florida Statutes, is created to  
20 read:

21           849.162 Amusement arcades.—

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

23           (a) "Amusement arcade" means an establishment that is open  
24 to the general public and provides at least 50 games and  
25 machines on the premises for use by customers.

26           (b) "Department" means the Department of Agriculture and  
27 Consumer Services.

28           (c) "Game or machine" means a device that operates by the  
29 insertion of a coin, currency, or card containing game play

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30 credits and that by an application of skill allows the player to  
31 receive points or coupons that may be exchanged for a prize  
32 consisting of merchandise or gift cards, but not cash or  
33 alcoholic beverages, and the cost of the merchandise or prize  
34 awarded does not exceed 75 cents times the number of games  
35 played. However, this term does not apply to:

36 1. A coin-operated game or device designed for amusement  
37 purposes only, which may, by application of skill, entitle the  
38 player to a maximum of 15 free replays of the game, which can be  
39 discharged of accumulated free replays only by reactivating the  
40 game for one additional play for each accumulated free replay,  
41 and which cannot make a permanent record of free replays; or

42 2. A game or device defined as a gambling device in 24  
43 U.S.C. s. 1171, which requires identification of each device by  
44 permanently affixing seriatim numbering and name, trade name,  
45 and date of manufacture under 24 U.S.C. s. 1173, and  
46 registration with the United States Attorney General, unless it  
47 is excluded from applicability under 24 U.S.C. s. 1178. However,  
48 this section does not authorize video poker games.

49 (2) This chapter does not apply to an amusement arcade that  
50 is in compliance with this section.

51 (3) (a) A person must hold an amusement arcade license to  
52 operate an amusement arcade in this state. Licenses are valid  
53 for 1 year, must be renewed annually, and are not transferable.

54 (b) An applicant for an initial or renewal license must be  
55 at least 21 years of age and must apply on forms prescribed by  
56 departmental rule.

57 (c) The annual license fee for each facility is \$1,000,  
58 which shall be deposited by the department into the Division of

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59 Consumer Services Trust Fund.

60 (d) The department may deny or revoke a license if the  
61 applicant or licensee has been found guilty of or had  
62 adjudication withheld in any jurisdiction, under any state or  
63 federal law, of a felony involving forgery, larceny, extortion,  
64 conspiracy to defraud, or filing false reports to a governmental  
65 agency.

66 (e) The department may deny, suspend, or revoke a license  
67 if the applicant or licensee has violated or failed to comply  
68 with this section or any rule adopted hereunder; has knowingly  
69 caused, aided, abetted, or conspired to cause any person to  
70 violate this section or any rule adopted hereunder; has obtained  
71 a license or permit by fraud, misrepresentation, or concealment;  
72 or is no longer eligible under this section.

73 (f) Fingerprints of applicants shall be taken in a manner  
74 approved by the department and submitted to the Department of  
75 Law Enforcement and the Federal Bureau of Investigation for a  
76 criminal records check upon initial application and every 5  
77 years thereafter. The department may by rule require an annual  
78 records check of renewal applications. The cost of processing  
79 fingerprints and conducting a records check shall be paid by the  
80 applicant.

81 (4) A license, permit, registration, or other authorization  
82 to operate an amusement arcade may not be issued by a local  
83 government to any person who is not licensed pursuant to this  
84 section.

85 (5) The following are exempt from the provisions of this  
86 section:

87 (a) A retail dealer who operates as a truck stop pursuant

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88 to s. 849.161(1) and (2).

89 (b) An amusement arcade that exchanges points or coupons  
90 received for merchandise on its premises only, excluding  
91 alcohol, gift cards, or gift certificates.

92 (6) A person who operates an amusement arcade in violation  
93 of this section commits a misdemeanor of the first degree,  
94 punishable as provided in s. 775.082 or s. 775.083.

95 (7) (a) An amusement arcade shall pay a tax of 4 percent of  
96 monthly gross receipts to the Department of Revenue in lieu of  
97 any sales or use tax, but is not required to obtain an annual  
98 amusement machine certificate for each machine. Proceeds from  
99 the tax shall be deposited into the General Revenue Fund.

100 (b)1. A licensee shall pay the gross receipts tax by the  
101 5th day of each month for the preceding month, with an attached  
102 report, under oath, providing a breakdown of the receipts and  
103 taxes due and any other information required by the department.

104 2. A licensee who violates this subsection is subject to a  
105 civil penalty not to exceed \$1,000 for each day the tax payment  
106 is not remitted. All penalties collected shall be deposited into  
107 the General Revenue Fund. The department may suspend or revoke  
108 the license or deny issuance of any renewal license to a  
109 licensee who does not pay any penalty imposed.

110 (8) Each licensee shall maintain permanent daily records of  
111 its operations, as determined by department rule, for at least 3  
112 years. The records shall include all financial transactions in  
113 sufficient detail to determine compliance with the requirements  
114 of this section. The records shall be made available for audit  
115 and inspection by the department or other law enforcement  
116 agencies during the licensee's regular business hours.

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117 (9) The department shall administer this section and may:

118 (a) Adopt rules, including rules relating to the issuance  
119 of licenses and the operation of amusement arcades,  
120 recordkeeping and reporting requirements, and the collection of  
121 fees and taxes imposed by this section;

122 (b) Conduct investigations and monitor the operation of  
123 amusement arcades and the playing of authorized games at such  
124 arcades;

125 (c) Review the books, accounts, and records of amusement  
126 arcades;

127 (d) Suspend or revoke a license or permit, after hearing,  
128 for any violation of this section or rules adopted hereunder;  
129 and

130 (e) Monitor and ensure the collection of taxes and fees  
131 imposed by this section.

132 (10) (a) A licensee may not conduct any amusement game  
133 unless it is specifically authorized by this section.

134 (b) The following activities are prohibited in amusement  
135 arcades:

136 1. Machines or devices, as provided in s. 849.16, except as  
137 authorized by this section;

138 2. A lottery, as provided in s. 849.09;

139 3. Bingo games, unless they comply with s. 849.0931;

140 4. Drawings by chance, unless specifically authorized by s.  
141 849.0935, or unless consideration is not required to participate  
142 in a drawing;

143 5. Game promotions, unless they comply with s. 849.094,  
144 including compliance with the requirement that the consumer  
145 product or service sold in connection with a sweepstakes is

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146 intended to be used by the consumer; and

147 6. Any game offered for play on a computer terminal through

148 a server regardless of whether other Internet sites are

149 available to be accessed.

150 Section 2. This act shall take effect July 1, 2010.