

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Regulatory Affairs
2 Committee
3 Representative Trumbull offered the following:
4

Amendment (with title amendment)

5
6 Remove everything after the enacting clause and insert:
7 Section 1. Section 546.10, Florida Statutes, is created to
8 read:

9 546.10 Amusement games or machines.—

10 (1) This act may be cited as the "Family Amusement Games
11 Act."

12 (2) The Legislature finds that regulation of the operation
13 of skill-based amusement games or machines at specified
14 locations to ensure compliance with the requirements of law is
15 appropriate to prevent expansion of casino-style gambling.

16 (3) Therefore, the Legislature finds that there is a
17 compelling state interest in clarifying the operation and use of

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18 amusement games or machines to ensure that provisions regulating
19 these devices are not subject to abuse or interpreted in any
20 manner as creating an exception to the state's general
21 prohibitions against gambling.

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

23 (a) "Amusement game or machine" means a game or machine
24 operated only for the bona fide entertainment of the general
25 public which a person activates by inserting or using currency
26 or a coin, card, coupon, slug, token, or similar device, and, by
27 the application of skill, with no material element of chance
28 inherent in the game or machine, the person playing or operating
29 the game or machine controls the outcome of the game. The term
30 does not include:

31 1. Any game or machine that uses mechanical slot reels,
32 video depictions of slot machine reels or symbols, or video
33 simulations or video representations of any other casino game,
34 including, but not limited to, any banked or banking card game,
35 poker, bingo, pull-tab, lotto, roulette, or craps.

36 2. A game in which the player does not control the outcome
37 of the game through skill or a game where the outcome is
38 determined by factors not visible, known, or predictable to the
39 player.

40 3. A video poker game or any other game or machine that
41 may be construed as a gambling device under the laws of this
42 state.

43 4. Any game or device defined as a gambling device in 15

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44 U.S.C. s. 1171, unless excluded under s. 1178.

45 (b) "Arcade amusement center" means a place of business
46 having at least 50 amusement games or machines on premises which
47 is operated for the entertainment of the general public and
48 tourists as a bona fide amusement facility.

49 (c) "Card" means a card other than a credit card or debit
50 card which is used to activate an amusement game or machine;
51 which contains a microprocessor chip, magnetic stripe, or other
52 means for storing, retrieving, and transferring information,
53 including information regarding coupons or points that are won
54 and that may be redeemed for merchandise; which is prefunded;
55 and for which the prefunded value is diminished by the cost of
56 play.

57 (d) "Game play" or "Game played" means the event beginning
58 with the activation of the amusement game or machine and ending
59 when the results of play are determined without the insertion or
60 the use of any additional currency, coin, card, coupon, slug,
61 token, or similar device to continue play. A free replay is not
62 a separate game played.

63 (e) The phrase "material element of chance inherent in the
64 game or machine" means any of the following:

65 1. The possibility of the player succeeding at the game or
66 accomplishing the player's task is determined by the number or
67 ratio of prior wins or prior losses of players playing the game.

68 2. An award of value is not based solely on the player
69 achieving the object of the game or on the player's score.

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70 3. The number of the coupons or points awarded or the
71 value of the prize awarded for successfully playing the game can
72 be controlled by a source other than the player or players
73 playing the game.

74 4. The ability of the player to succeed at the game is
75 determined by a game feature or design that changes the effect
76 of the player's actions and that is not discernible or known by
77 the player.

78 5. The accomplishment of the player's task requires the
79 exercise of a skill that no player could exercise.

80 6. A computer-based or mechanical random number generator
81 or other factor that is not discernible, known, or predictable
82 by the player determines the outcome or winner of the game.

83 7. The game is designed or adapted with a control device
84 to allow manipulation of the game by the operator in order to
85 prevent a player from winning or to predetermine which player
86 will win.

87 (f) "Merchandise" means noncash prizes maintained on the
88 premises by the operator of the amusement game or machine,
89 including toys and novelties. The term does not include:

90 1. A cash equivalent, such as a gift card or certificate.

91 2. An alcoholic beverage.

92 3. A tobacco product.

93 4. A card, coupon, point, slug, token, or similar device
94 that can be used to activate an amusement game or machine.

95 5. A coupon or a point that has a redemption value greater

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116 | than the maximum value determined under subsection (10).

117 | 6. Any prize or other item, if the exchange or conversion
118 | to cash or a cash equivalent is facilitated or permitted by the
119 | owner or operator of the game or machine.

120 | (g) "Redemption value" means the imputed value of a coupon
121 | or a point, based on the wholesale cost of merchandise for which
122 | the individual may redeem the coupon or point.

123 | (h) "Truck stop" means a dealer registered pursuant to
124 | chapter 212, excluding a marina, which:

125 | 1. Declares the sale of diesel fuel to be its primary fuel
126 | business; and

127 | 2. Operates at least six functional diesel fuel pumps.

128 | (5) Notwithstanding any other provision of law, an
129 | amusement game or machine may be operated as provided in this
130 | section.

131 | (6) A "Type A" amusement game or machine is an amusement
132 | game or machine that, upon activation and game play, may entitle
133 | or enable a person to replay the game or device without the
134 | insertion or the use of any additional currency, coin, card,
135 | coupon, slug, token, or similar device, if:

136 | (a) The amusement game or machine can accumulate and react
137 | to no more than 15 such replays;

138 | (b) The amusement game or machine can be discharged of
139 | accumulated replays only by reactivating the game or device for
140 | one additional play for each accumulated replay;

141 | (c) The amusement game or machine cannot make a permanent

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122 record, directly or indirectly, of any free replay;

123 (d) The amusement game or machine does not entitle the
124 player to receive any merchandise or a coupon or a point that
125 may be redeemed for merchandise;

126 (e) An unused free replay may not be exchanged for
127 anything of value, including merchandise or a coupon or a point
128 that may be redeemed for merchandise; and

129 (f) The amusement game or machine does not contain any
130 device that awards a credit and contains a circuit, meter, or
131 switch capable of removing and recording the removal of a credit
132 if the award of a credit is dependent upon chance.

133 (7) A "Type B" amusement game or machine is an amusement
134 game or machine that may, upon activation and game play, entitle
135 or enable a person to receive a coupon or a point that may only
136 be redeemed for merchandise, if:

137 (a) The coupon or point has no value other than for
138 redemption for merchandise;

139 (b) The redemption value of the coupon or point a person
140 receives for a single game played does not exceed the maximum
141 value determined under subsection (10). However, a player may
142 accumulate coupons or points to redeem for a single item of
143 merchandise that has a wholesale cost of not more than 100 times
144 the maximum value determined under subsection (10), or for a
145 prize consisting of more than one item, unit, or part, only if
146 the aggregate wholesale cost of all items, units, or parts does
147 not exceed 100 times the maximum value determined under

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148 subsection (10); and

149 (c) The redemption value of coupons or points that a
150 person receives for playing multiple games simultaneously or
151 competing against others in a multiplayer game does not exceed
152 the maximum value determined under subsection (10).

153 (8) A "Type C" amusement game or machine is an amusement
154 game or machine that allows the player to manipulate a claw or
155 similar device within an enclosure that entitles or enables a
156 person to receive merchandise directly from the game or machine,
157 if the wholesale cost of the merchandise does not exceed 10
158 times the maximum value determined under subsection (10).

159 (9) (a) A "Type B" amusement game or machine may only be
160 located at:

161 1. A facility as defined in s. 721.05(17) that is under
162 the control of a timeshare plan;

163 2. A public lodging establishment or public food service
164 establishment licensed pursuant to chapter 509;

165 3. The following premises, if the owner or operator of the
166 premises has a current license issued by the Department of
167 Business and Professional Regulation pursuant to chapters 509,
168 561, 562, 563, 564, 565, 567 or 568:

169 a. An arcade amusement center;

170 b. A bowling center, as defined in s. 849.141; or

171 c. A truck stop.

172 (b) A "Type C" amusement game or machine may only be
173 located at:

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174 1. A facility as defined in s. 721.05(17) that is under
175 the control of a timeshare plan;

176 2. An arcade amusement center;

177 3. A bowling center, as defined in s. 849.141;

178 4. The premises of a retailer, as defined in s. 212.02;

179 5. A public lodging establishment or public food service
180 establishment licensed pursuant to chapter 509;

181 6. A truck stop; or

182 7. The premises of a veterans' service organization
183 granted a federal charter under Title 36, United States Code, or
184 a division, department, post, or chapter of such organization,
185 for which an alcoholic beverage license has been issued.

186 (10) For purposes of this section, the "maximum value" is
187 \$5.25. Beginning September 30, 2017, and annually thereafter,
188 the Department of Revenue shall calculate the maximum value as
189 adjusted by the rate of inflation for the 12 months before
190 September 1, rounded to the nearest 5 cents. In calculating the
191 adjusted maximum value, the department shall multiply the prior
192 maximum value by one plus the percentage change in the Consumer
193 Price Index for All Urban Consumers, U.S. City Average, All
194 Items, not seasonally adjusted, or a successor index as
195 calculated by the United States Department of Labor. Each
196 adjusted maximum value shall take effect on the following
197 January 1, with the initial adjusted maximum value to take
198 effect on January 1, 2018. Beginning October 15, 2017, and
199 annually thereafter, the department shall publish the maximum

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200 value, as adjusted, in a brochure accessible from its website
201 relating to sales and use tax on amusement machines. If the
202 release of the August Consumer Price Index for All Urban
203 Consumers occurs after September 15, in any given year, the
204 department shall publish the adjusted maximum value within 30
205 calendar days after the release date.

206 (11) Notwithstanding any other provision of law, an action
207 to enjoin the operation of any game or machine pursuant to or
208 for an alleged violation of this section or chapter 849 may be
209 brought only by:

210 (a) The Attorney General, the state attorney for the
211 circuit in which the game or machine is located, any federally
212 recognized tribal government possessing sovereign powers and
213 rights of self-governance which is a party to a compact with the
214 state, or in the case of an alleged violation of statutes that
215 it is charged with enforcing, the Department of Agriculture and
216 Consumer Services or the Department of Business and Professional
217 Regulation; or

218 (b) Any substantially affected person who is a resident of
219 the county where the place of business operating the game or
220 machine is located, or any substantially affected person who has
221 a business or residence within 5 miles of the place of business
222 operating the game or machine.

223 (12) In addition to other civil, administrative, and
224 criminal sanctions, any person who violates this section shall,
225 upon conviction, be guilty of a misdemeanor of the second

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226 degree, punishable as provided in s. 775.082 or s. 775.083. Any
227 person convicted of violating this section a second time shall,
228 upon conviction, be guilty of a misdemeanor of the first degree,
229 punishable as provided in s. 775.082 or s. 775.083. Any person
230 who violates any provision of this section after having been
231 twice convicted shall be deemed a common offender and shall be
232 guilty of a felony of the third degree, punishable as provided
233 in s. 775.082, s. 775.083, or s. 775.084.

234 Section 2. Subsection (8) of section 551.102, Florida
235 Statutes, is amended to read:

236 551.102 Definitions.—As used in this chapter, the term:

237 (8) "Slot machine" means any mechanical or electrical
238 contrivance, terminal that may or may not be capable of
239 downloading slot games from a central server system, machine, or
240 other device that, upon insertion of a coin, bill, ticket,
241 token, or similar object or upon payment of any consideration
242 whatsoever, including the use of any electronic payment system
243 except a credit card or debit card, is available to play or
244 operate, the play or operation of which, whether by reason of
245 skill or application of the element of chance or both, may
246 deliver or entitle the person or persons playing or operating
247 the contrivance, terminal, machine, or other device to receive
248 cash, billets, tickets, tokens, or electronic credits to be
249 exchanged for cash or to receive merchandise or anything of
250 value whatsoever, whether the payoff is made automatically from
251 the machine or manually. The term includes associated equipment

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252 necessary to conduct the operation of the contrivance, terminal,
253 machine, or other device. Slot machines may use spinning reels,
254 video displays, or both. A slot machine is not a "coin-operated
255 amusement machine" as defined in s. 212.02(24) or an amusement
256 game or machine as described in s. 546.10 ~~s. 849.161~~, and slot
257 machines are not subject to the tax imposed by s. 212.05(1)(h).

258 Section 3. Section 849.161, Florida Statutes, is repealed.

259 Section 4. This act shall take effect July 1, 2015.

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261 -----
262 **T I T L E A M E N D M E N T**

263 Remove everything before the enacting clause and insert:

264 A bill to be entitled

265 An act relating to amusement games or machines; creating the
266 "Family Amusement Games Act"; creating s. 546.10, F.S.;
267 providing legislative findings; defining terms and phrases;
268 authorizing an amusement game or machine to be operated with
269 specified requirements; providing requirements for classifying
270 such a device as a "Type A, B or C" amusement game or machine;
271 providing that amusement games or machines may only be located
272 at specified locations; specifying the maximum value on the
273 redemption value of a coupon or a point; requiring the
274 Department of Revenue to annually adjust the maximum value;
275 providing a formula for the adjustment of the maximum value;
276 requiring the department to publish the amount of the adjusted
277 maximum value; authorizing certain persons or entities to enjoin

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 641 (2015)

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278 the operation of an amusement game or machine; providing
279 penalties; amending s. 551.102, F.S.; conforming a cross-
280 reference; repealing s. 849.161, F.S., relating to amusement
281 games or machines; providing an effective date.