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CS/HB 641, Engrossed 1

2015 Legislature

1
2 An act relating to amusement games or machines;
3 creating s. 546.10, F.S.; creating the "Family
4 Amusement Games Act"; providing legislative findings;
5 defining terms; authorizing operation of an amusement
6 game or machine pursuant to specified provisions;
7 providing classifications for such a devices;
8 providing that specified types of amusement games or
9 machines may only be located at certain locations;
10 specifying the maximum value on the redemption value
11 of a coupon or a point; requiring the Department of
12 Revenue to annually adjust the maximum value;
13 providing a formula for adjustment of the maximum
14 value; requiring the department to publish the amount
15 of the adjusted maximum value; authorizing certain
16 persons or entities to enjoin the operation of an
17 amusement game or machine; providing penalties;
18 amending s. 551.102, F.S.; conforming a cross-
19 reference; repealing s. 849.161, F.S., relating to
20 amusement games or machines; providing an effective
21 date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 546.10, Florida Statutes, is created to
26 read:



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27 | 546.10 Amusement games or machines.—

28 | (1) This section may be cited as the "Family Amusement
29 | Games Act."

30 | (2) The Legislature finds that regulation of the operation
31 | of skill-based amusement games or machines at specified
32 | locations to ensure compliance with the requirements of law is
33 | appropriate to prevent expansion of casino-style gambling.
34 | Therefore, the Legislature finds that there is a compelling
35 | state interest in clarifying the operation and use of amusement
36 | games or machines to ensure that provisions regulating these
37 | devices are not subject to abuse or interpreted in any manner as
38 | creating an exception to the state's general prohibitions
39 | against gambling.

40 | (3) As used in this section, the term:

41 | (a) "Amusement game or machine" means a game or machine
42 | operated only for the bona fide entertainment of the general
43 | public which a person activates by inserting or using currency
44 | or a coin, card, coupon, slug, token, or similar device, and, by
45 | the application of skill, with no material element of chance
46 | inherent in the game or machine, the person playing or operating
47 | the game or machine controls the outcome of the game. The term
48 | does not include:

49 | 1. Any game or machine that uses mechanical slot reels,
50 | video depictions of slot machine reels or symbols, or video
51 | simulations or video representations of any other casino game,
52 | including, but not limited to, any banked or banking card game,



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53 | poker, bingo, pull-tab, lotto, roulette, or craps.

54 | 2. A game in which the player does not control the outcome
55 | of the game through skill or a game where the outcome is
56 | determined by factors not visible, known, or predictable to the
57 | player.

58 | 3. A video poker game or any other game or machine that
59 | may be construed as a gambling device under the laws of this
60 | state.

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

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

67 | (c) "Card" means a card other than a credit card or debit
68 | card:

69 | 1. Which is used to activate an amusement game or machine.

70 | 2. Which contains a microprocessor chip, magnetic stripe,
71 | or other means for storing, retrieving, and transferring
72 | information, which may include information regarding coupons or
73 | points that are won and that may be redeemed for merchandise.

74 | 3. Which is prefunded.

75 | 4. For which the prefunded value is reduced by the cost of
76 | play.

77 | (d) "Game play" means the process of events beginning with
78 | the activation of the amusement game or machine and ending when



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79 | the results of play are determined without the insertion or the
80 | use of any additional currency, coin, card, coupon, slug, token,
81 | or similar device to continue play. A free replay is not a
82 | separate game played.

83 | (e) "Material element of chance inherent in the game or
84 | machine" means that:

85 | 1. The possibility of the player succeeding at the game or
86 | accomplishing the player's task is determined by the number or
87 | ratio of prior wins or prior losses of players playing the game;

88 | 2. An award of value is not based solely on the player
89 | achieving the object of the game or on the player's score;

90 | 3. The number of the coupons or points awarded or the
91 | value of the prize awarded for successfully playing the game can
92 | be controlled by a source other than the player or players
93 | playing the game;

94 | 4. The ability of the player to succeed at the game is
95 | determined by a game feature or design that changes the effect
96 | of the player's actions and that is not discernible or known by
97 | the player;

98 | 5. The accomplishment of the player's task requires the
99 | exercise of a skill that no player could exercise;

100 | 6. A computer-based or mechanical random number generator
101 | or other factor that is not discernible, known, or predictable
102 | by the player determines the outcome or winner of the game; or

103 | 7. The game is designed or adapted with a control device
104 | to allow manipulation of the game by the operator in order to



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105 prevent a player from winning or to predetermine which player
106 will win.

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

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

111 2. An alcoholic beverage;

112 3. A tobacco product;

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

115 5. A coupon or a point that has a redemption value greater
116 than the maximum value determined under subsection (7); or

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.

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

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



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- 131 (5) For purposes of this section:
- 132 (a) "Type A" is an amusement game or machine that, upon
- 133 activation and game play, does not deliver, entitle, or enable a
- 134 person playing or operating the amusement game or machine to
- 135 receive cash, billets, tickets, tokens, points, coupons,
- 136 merchandise, or any other thing of value, including electronic
- 137 credits to be exchanged for cash, regardless of whether such
- 138 things are delivered or paid automatically from the machine or
- 139 manually. However, Type A amusement games and machines may
- 140 entitle or enable a person to replay the game without the
- 141 insertion or use of any additional currency, coin, card, coupon,
- 142 slug, token, or similar device, only if:
- 143 1. The amusement game or machine can accumulate and react
- 144 to no more than 15 such replays;
- 145 2. The amusement game or machine can be discharged of
- 146 accumulated replays only by reactivating the game or device for
- 147 one additional play for each accumulated replay;
- 148 3. The amusement game or machine cannot make a permanent
- 149 record, directly or indirectly, of any free replay;
- 150 4. The amusement game or machine does not entitle the
- 151 player to receive anything of value other than a free replay;
- 152 5. An unused free replay may not be exchanged for anything
- 153 of value, including merchandise or a coupon or a point that may
- 154 be redeemed for merchandise; and
- 155 6. The amusement game or machine does not contain any
- 156 device that awards a credit and contains a circuit, meter, or



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157 switch capable of removing and recording the removal of a credit
158 if the award of a credit is dependent upon chance.

159 (b) "Type B" is an amusement game or machine that may,
160 upon activation and game play, entitle or enable a person to
161 receive a coupon or a point that may only be redeemed onsite for
162 merchandise; and:

163 1. The coupon or point has no value other than for
164 redemption onsite for merchandise;

165 2. The redemption value of the coupon or point that a
166 person receives for a single game played does not exceed the
167 maximum value determined under subsection (7). However, a player
168 may accumulate coupons or points to redeem onsite for a single
169 item of merchandise that has a wholesale cost of not more than
170 100 times the maximum value determined under subsection (7), or
171 for a prize consisting of more than one item, unit, or part,
172 only if the aggregate wholesale cost of all items, units, or
173 parts does not exceed 100 times the maximum value determined
174 under subsection (7); and

175 3. The redemption value of coupons or points that a person
176 receives for playing multiple games simultaneously or competing
177 against others in a multiplayer game does not exceed the maximum
178 value determined under subsection (7).

179 (c) "Type C" is an amusement game or machine that allows
180 the player to manipulate a claw or similar device within an
181 enclosure that entitles or enables a person to receive
182 merchandise directly from the game or machine, if the wholesale



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183 cost of the merchandise does not exceed 10 times the maximum
 184 value determined under subsection (7).

185 (6) (a) A Type B amusement game or machine may only be
 186 operated at:

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

189 2. A public lodging establishment or public food service
 190 establishment licensed pursuant to chapter 509;

191 3. The following premises, if the owner or operator of the
 192 premises has a current license issued by the Department of
 193 Business and Professional Regulation pursuant to chapter 509,
 194 chapter 561, chapter 562, chapter 563, chapter 564, chapter 565,
 195 chapter 567, or chapter 568:

196 a. An arcade amusement center;

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

198 c. A truck stop.

199 (b) A Type C amusement game or machine may only be
 200 operated at:

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

203 2. An arcade amusement center;

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

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

206 5. A public lodging establishment or public food service
 207 establishment licensed pursuant to chapter 509;

208 6. A truck stop; or



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209 7. The premises of a veterans' service organization
210 granted a federal charter under Title 36, U.S.C., or a division,
211 department, post, or chapter of such organization, for which an
212 alcoholic beverage license has been issued.

213 (7) For purposes of this section, the maximum value is
214 \$5.25. Beginning September 30, 2017, and annually thereafter,
215 the Department of Revenue shall calculate the maximum value as
216 adjusted by the rate of inflation for the 12 months preceding
217 September 1, rounded to the nearest 5 cents. In calculating the
218 adjusted maximum value, the department shall multiply the
219 previous maximum value by one plus the percentage change in the
220 Consumer Price Index for All Urban Consumers, U.S. City Average,
221 All Items, not seasonally adjusted, or a successor index as
222 calculated by the United States Department of Labor. Each
223 adjusted maximum value shall take effect on the following
224 January 1, with the initial adjusted maximum value to take
225 effect on January 1, 2018. Beginning October 15, 2017, and
226 annually thereafter, the department shall publish the maximum
227 value, as adjusted, in a brochure accessible from its website
228 relating to sales and use tax on amusement machines. If the
229 release of the August Consumer Price Index for All Urban
230 Consumers occurs after September 15, in any given year, the
231 department shall publish the adjusted maximum value within 30
232 calendar days after the release date.

233 (8) Notwithstanding any other provision of law, an action
234 to enjoin the operation of any game or machine pursuant to or



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235 for an alleged violation of this section or chapter 849 may be
236 brought only by:

237 (a) The Attorney General, the state attorney for the
238 circuit in which the game or machine is located, a federally
239 recognized tribal government possessing sovereign powers and
240 rights of self-governance which is a party to a compact with the
241 state, or in the case of an alleged violation of statutes that
242 it is charged with enforcing, the Department of Agriculture and
243 Consumer Services or the Department of Business and Professional
244 Regulation; or

245 (b) A substantially affected person who is a resident of
246 the county where the place of business operating the game or
247 machine is located, or any substantially affected person who has
248 a business or residence within 5 miles of the place of business
249 operating the game or machine.

250 (9) In addition to other civil, administrative, and
251 criminal sanctions, a person who violates this section commits a
252 misdemeanor of the second degree, punishable as provided in s.
253 775.082 or s. 775.083. A person convicted of violating this
254 section a second time commits a misdemeanor of the first degree,
255 punishable as provided in s. 775.082 or s. 775.083. A person who
256 violates this section after having been twice convicted is
257 deemed a common offender and commits a felony of the third
258 degree, punishable as provided in s. 775.082, s. 775.083, or s.
259 775.084.

260 Section 2. Subsection (8) of section 551.102, Florida



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261 Statutes, is amended to read:

262 551.102 Definitions.—As used in this chapter, the term:

263 (8) "Slot machine" means any mechanical or electrical
264 contrivance, terminal that may or may not be capable of
265 downloading slot games from a central server system, machine, or
266 other device that, upon insertion of a coin, bill, ticket,
267 token, or similar object or upon payment of any consideration
268 whatsoever, including the use of any electronic payment system
269 except a credit card or debit card, is available to play or
270 operate, the play or operation of which, whether by reason of
271 skill or application of the element of chance or both, may
272 deliver or entitle the person or persons playing or operating
273 the contrivance, terminal, machine, or other device to receive
274 cash, billets, tickets, tokens, or electronic credits to be
275 exchanged for cash or to receive merchandise or anything of
276 value whatsoever, whether the payoff is made automatically from
277 the machine or manually. The term includes associated equipment
278 necessary to conduct the operation of the contrivance, terminal,
279 machine, or other device. Slot machines may use spinning reels,
280 video displays, or both. A slot machine is not a "coin-operated
281 amusement machine" as defined in s. 212.02(24) or an amusement
282 game or machine as described in s. 546.10 ~~849.161~~, and slot
283 machines are not subject to the tax imposed by s. 212.05(1)(h).

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

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