

SUBJECT: Reporting to comptroller on financial interest in coin-operated machines

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 7 ayes — Smith, Kuempel, Geren, Gooden, Guillen, Gutierrez, Price

0 nays

2 absent — Miles, S. Thompson

WITNESSES: For — None

Against — (*Registered, but did not testify*: Lee Woods, Amusement and Music Operators of Texas)

On — Rob Kohler, Texas Baptist Christian Life Commission

BACKGROUND: Under Occupations Code, ch. 2153.151, manufacturers, owners, buyers and others associated with music, skill, or pleasure coin-operated machines must hold a license or registration certificate issued by the comptroller. Under sec. 2153.202, license holders must maintain a record of and report to the comptroller certain information about each music, skill, or pleasure coin-operated machine owned, possessed, or controlled by the license holder, including the make and serial number of each machine, the location of the machine, and any change in machine ownership.

It is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) to intentionally fail or refuse to report required information to the comptroller and to withhold or conceal information required to be reported from a person designated as responsible for reporting the information.

Penal Code sec. 47.03 makes gambling promotion a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). Included in the criminal activities listed in this section are operating or participating in the earnings of a gambling place, engaging in bookmaking, taking bets or placing odds on games or political contests, and setting up or promoting a

lottery.

Penal Code, sec. 71.02 makes engaging in organized criminal activity a crime. The offense consists of committing one or more of the crimes or types of crimes listed in the section with the intent to establish, maintain, or participate in a criminal combination or its profits or as a member of a criminal street gang. One of the types of crimes on the list is any gambling offense punishable as a class A misdemeanor.

DIGEST:

HB 137 would require holders of licenses for music, skill, or pleasure coin-operated machines to submit to the comptroller, along with the information that is currently required, the name and address of the machine owner and the name and address of anyone other than the owner who had a financial interest in the proceeds of the machine. As an exception to this requirement, corporate license holders would not be required to maintain a record of or report the name and address of a shareholder who held less than 10 percent of the shares in the license holder's corporation.

The bill would increase the penalty for failing or refusing to report required information to the comptroller from a class B misdemeanor to a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000)

HB 137 would increase the penalty for gambling promotion from a class A misdemeanor to a state jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).

The bill would expand the definition of crimes considered part of the offense of engaging in organized criminal activity to include felony gambling offenses.

The bill would take effect September 1, 2013, and would apply to offenses committed on or after that date and to records maintained or reported on or after that date.

**SUPPORTERS
SAY:**

HB 137 would increase the accountability of persons involved with coin operated machines in Texas, some of which may be illegal gambling machines.

Current law requires owners and others involved in coin-operated

machines to obtain a license or registration from the comptroller and to report to the comptroller certain information about the machine. However, the report does not include information about everyone who might have a financial interest in the machine. This makes it difficult for law enforcement authorities to determine who should be held responsible if the machine is illegal or an establishment is shut down for a gambling offense.

HB 137 would address this problem by expanding the information that must be submitted as part of the licensing process to include the names and addresses of those with financial interests in the machines' proceeds. This would allow enforcement authorities to cast a net big enough to capture those involved with illegal gambling. The bill would make a reasonable exception for corporate license holders so that reports would not have to include information about shareholders with minimal interests in the machines, and most likely minimal knowledge about them.

Increasing the penalty for failing to make the required report would encourage better compliance and deter persons from withholding information. The penalty would remain a misdemeanor, the appropriate level for this type of offense.

HB 137 also would increase the penalty for gambling promotion to reflect the seriousness of this crime and better deter it. The current class A penalty is a mere slap on the wrist for many illegal machine operators, who view it as no more than the cost of doing business. The class of state jail-felony offense was developed for nonviolent but serious offenses, making it a good fit for the punishment of gambling promotion.

Adding all felony gambling offenses to the list of those contributing to the crime of organized criminal activity would be a natural extension of current law, which makes class A misdemeanor gambling offenses part of that crime. It would give law enforcement officers another tool to go after those who conduct illegal gambling.

**OPPONENTS
SAY:**

Current law properly punishes failing or refusing to report required information to the comptroller and gambling promotion offenses, and the penalties should not be increased.

It would be unfair to increase penalties on Texas bar, tavern, or other business owners with legal amusement machines who are trying to meet reporting requirements. Current law allows for up to six months in jail and

a fine of up to \$2,000, which are appropriate given the low-level, non-violent nature of reporting violations. More jail time and higher fines would be out of line with the seriousness of this offense.

Enhancing the penalty for gambling promotion — especially from a misdemeanor to a felony — would be an inappropriate leap in punishment, especially given the gray areas in current law relating to gaming machines. Overzealous law enforcement authorities may go after an establishment or owners of legal machines, thinking the machines are illegal because of different interpretations of the current law. In these cases, a felony punishment would be too harsh and not a good use of state resources, which should be reserved to deal with other types of crimes.

**OTHER
OPPONENTS
SAY:**

HB 137 should not carve out an exception so that information about certain shareholders of corporate licensees would not have to be reported to the comptroller. It is important to know about everyone with a financial interest in these machines.