

BILL ANALYSIS

Senate Research Center

C.S.S.B. 309
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State Affairs
3/10/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 47 of the Penal Code provides a limited exception from the definition of gambling device for electromechanical devices operated for bona fide amusement purposes if the player is awarded only with noncash merchandise prizes worth not more than \$5 or 10 times the amount charged to play the game, whichever is less. The types of machines exempted by the Penal Code are often referred to as amusement redemption machines. Despite the strict standards in the Penal Code, some amusement redemption machine operators operate their machines in violation of the Penal Code by paying cash prizes. While tools exist for law enforcement to prosecute those who violate the Penal Code, enforcement of the Penal Code provisions is more effective in some jurisdictions than others.

C.S.S.B. 309 establishes a location license for the operation of amusement redemption machines. The bill also requires certain records to be kept, requires certain information to be made public, and imposes criminal penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2153, Occupations Code, by adding Subchapter K, as follows:

SUBCHAPTER K. LOCATION LICENSE FOR OPERATION OF AMUSEMENT REDEMPTION MACHINES

Sec. 2153.501. APPLICABILITY. Makes the provisions of this chapter governing licenses and registration certificates, including penalties and enforcement provisions, unless otherwise provided, applicable to a location license issued under this subchapter.

Sec. 2153.502. DEFINITIONS. Defines "amusement redemption machine," "operate," "operator," and "premises."

Sec. 2153.503. LOCATION LICENSE. (a) Provides that no more than ten amusement redemption machines are authorized to be operated on a particular premise unless the operator holds a location license issued under this subchapter for the premises.

(b) Requires an operator, notwithstanding Section 2153.008 (Exempt Owners or Exhibitors), to hold a location license in addition to any other license or registration certificate the operator is required to hold under this chapter.

(c) Requires an applicant for a location license to file with the comptroller of public accounts (comptroller) an application that includes certain information.

(d) Provides that a person who submits an application for a location license consents to an inspection of the licensed premises by the comptroller or a peace officer at any time during the location's hours of operation to ensure compliance with this subchapter.

(e) Prohibits the comptroller from issuing a location license to an applicant unless the applicant certifies in writing that the amusement redemption machines to be operated on the premises will be operated in accordance with Section 47.01(4)(B) (regarding items that do not qualify as a gambling device), Penal Code. Provides that the issuance of a location license by the comptroller does not constitute an official opinion or judgment by the comptroller that an amusement redemption machine operated on the premises of a location license holder is being operated in accordance with Section 47.01(4)(B), Penal Code.

Sec. 2153.504. FEES. (a) Provides that the annual license fee for each location license is \$500.

(b) Requires that an application for a location license be accompanied by a nonrefundable application fee in the form of a cashier's check, money order, personal check, or other method of payment authorized by the comptroller in an amount equal to the annual location license fee.

Sec. 2153.505. REQUIRED LOCATION FOR LICENSE HOLDER RECORDS. (a) Requires a location license holder, at all times, to prominently display the holder's license at the licensed premises.

(b) Requires a location license holder to maintain, on the licensed premises, a record of each amusement redemption machine located on the premises to which the location license applies, including the make, type, and serial number of the machine; the date the machine was placed in operation on the premises to which the location license applies; the date of the most recent registration of the machine; and if the machine is owned by the license holder, any change in ownership of the machine.

(c) Requires the location license holder to allow the comptroller or a peace officer to enter and inspect the licensed premises at any time during hours of operation to ensure compliance with this subchapter.

Sec. 2153.506. MANDATORY DENIAL OR REVOCATION OF LOCATION LICENSE. (a) Prohibits the comptroller from issuing a location license if the comptroller finds that the license applicant or any person required to be listed on the financial interest statement under Section 2153.503 (c)(10) is prohibited from holding a general business license under Section 2153.302 (Mandatory Denial of General Business License) or has been convicted of an offense under Section 47.06 (Possession of Gambling Device, Equipment, or Paraphernalia), Penal Code.

(b) Prohibits the comptroller from issuing or renewing a location license if the applicant fails to comply with Section 2153.505.

(c) Requires the comptroller to revoke the location license of a license holder who refuses to allow the comptroller or a peace officer to enter or inspect the licensed premises as required by this subchapter. Prohibits the comptroller from issuing a location license to a person who has had a location license revoked under this subsection.

Sec. 2153.507. INFORMATION FROM LOCATION LICENSE APPLICATION. (a) Provides that, notwithstanding Section 2153.101 (Information From License Application) and following the issuance of a location license under this subchapter, certain information in the location license application is a public record and is required to be posted on the comptroller's Internet website not later than the 10th business day after the date the location license is issued.

(b) Requires the comptroller to provide a method to allow a visitor to the comptroller's Internet website to retrieve by county or municipality the license information posted under Subsection (a).

Sec. 2153.508. CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person knowingly operates or allows the operation of more than 10 amusement redemption machines on premises for which a location license is not in effect or fails to display a location license or maintain the records as required by Section 2153.505.

(b) Provides that an offense under this section is a Class A misdemeanor, except that a second or subsequent offense under this section is a state jail felony.

(c) Provides that it is presumed that an operator intended to commit an offense under this section if more than 10 amusement redemption machines are operated on premises for which a location license is not prominently displayed, an amusement redemption machine operated on the premises is not included in the records maintained under Section 2153.505(b), or the records required under Section 2153.505(b) are not available for inspection by the comptroller or a peace officer during the hours of operation of the premises.

SECTION 2. Amends Section 2153.153, Occupations Code, by adding Subsection (a-1), as follows:

(a-1) Requires that, in addition to the information prescribed by Subsection (a), an application for a general business, import, or repair license include a statement indicating whether a machine associated with the application is an amusement redemption machine.

SECTION 3. Effective date: September 1, 2009.