

HOUSE BILL No. 2524

By Committee on Taxation

3-15

9 AN ACT regulating certain amusement machines; providing duties and
10 responsibilities of the director of alcoholic beverage control; relating
11 to licensure; taxes; penalties for criminal acts.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. As used in sections 1 through 8, and amendments thereto:

15 (a) "Applicant" or "licensee" means owner, including an owner's of-
16 ficers, directors, shareholders, individuals, members of any association or
17 other entity not specified; and, when applicable in context, the business
18 entity itself;

19 (b) (1) "bona fide coin operated amusement machine subject to reg-
20 istration" means any mechanical or electrical device or video game used
21 by the public to provide amusement or entertainment, and whose
22 operation:

23 (A) Requires the payment of or the insertion of a United States coin
24 or bill;

25 (B) the result of whose operation depends in whole or predominant
26 part upon the skill of the player; and

27 (C) which affords an award to a successful player;

28 (2) each game, task or play on the bona fide coin operated amusement
29 machine subject to registration shall be winnable by a player with the
30 requisite skill. The outcome of each game must be determined exclusively
31 by the player and not the machine. A machine can neither predetermine
32 a winner or limit the number of prizes to a predetermined quantity. All
33 such bona fide coin operated amusement machines which afford awards
34 to successful players must be registered with the state as provided in
35 section 2, and amendments thereto;

36 (3) a bona fide coin operated amusement machine does not include:

37 (A) Pinball machines;

38 (B) console machines;

39 (C) video games which do not afford the player an award;

40 (D) crane machines;

41 (E) claw machines;

42 (F) pusher machines;

43 (G) bowling machines;

- 1 (H) novelty arcade games;
2 (I) foosball or table soccer machines;
3 (J) miniature racetrack, football or golf machines;
4 (K) target or shooting gallery machines;
5 (L) basketball machines;
6 (M) shuffleboard games;
7 (N) kiddie ride games;
8 (O) skeeball machines;
9 (P) air hockey machines;
10 (Q) roll down machines;
11 (R) trivia machines;
12 (S) laser games;
13 (T) simulator games;
14 (U) virtual reality machines;
15 (V) maze games;
16 (W) racing games; and
17 (X) coin operated pool tables or coin operated billiard tables; and
18 (4) a player of a “bona fide coin operated amusement machine sub-
19 ject to registration” may accumulate winnings for the successful play of
20 such bona fide coin operated amusement machine through tokens, vouch-
21 ers, points or tickets. Points may be accrued on the machine or device.
22 A player may carry over points on one play to subsequent plays. A player
23 may redeem accumulated tokens, vouchers or tickets for cash or noncash
24 merchandise or prizes, or both;
25 (c) “director” means the director of alcoholic beverage control;
26 (d) “location” means a facility open to the public or private members
27 where one or more bona fide coin operated amusement machines reg-
28 istered with the state are available for commercial use and play;
29 (e) “master license” and “location license” means the certificate
30 which every owner or operator, or vendor of a bona fide coin operated
31 amusement machine registered with the state and every location owner,
32 manager or operator of a facility where such machines are available for
33 play shall purchase and display in the location where the machine is lo-
34 cated in order to operate the machine in the state in compliance with the
35 requirements of section 1 et seq., and amendments thereto;
36 (f) “operator”, “distributor” or “vendor” means any person, individ-
37 ual, firm, company, association, corporation or other business entity who
38 exhibits, displays or permits to be exhibited or displayed, in a place of
39 business other than such operator’s, distributor’s or vendor’s business,
40 any bona fide coin operated amusement machine in this state;
41 (g) “permit tax” means the annual per machine charge for state issued
42 “stickers”, which every owner, distributor, operator or vendor of a bona
43 fide coin operated amusement machine registered with the state and

- 1 every location owner, manager or operator shall each purchase and dis-
2 play on each such machine in order to legally operate the machine in the
3 state;
- 4 (h) (1) “skill” means any presence of the following factors, alone or
5 in combination with one another:
- 6 (A) A learned power of doing a thing competently;
 - 7 (B) a particular craft, art, ability, strategy or tactic;
 - 8 (C) a developed or acquired aptitude or ability;
 - 9 (D) a coordinated set of actions, including, but not limited to, eye-
10 hand coordination;
 - 11 (E) dexterity, fluency or coordination in the execution of learned
12 physical or mental tasks or both;
 - 13 (F) technical proficiency or expertise;
 - 14 (G) development or implementation of strategy or tactics in order to
15 achieve a goal; or
 - 16 (H) knowledge of the means or methods of accomplishing a task; and
- 17 (2) the term skill refers to a particular craft, coordinated effort, art,
18 ability, strategy or tactic employed by the player to affect in some way
19 the outcome of the game played on a machine. If a player can take no
20 action to affect the outcome of the game, the machine does not meet the
21 “skill” requirement of this subsection, and is not a bona fide coin operated
22 amusement machine; and
- 23 (i) “sticker” means the decal issued upon payment of the required
24 permit tax, by both owners of bona fide coin operated amusement ma-
25 chines and owners or operators of locations where such machines are
26 made available for use. Each bona fide coin operated amusement ma-
27 chine shall display such “stickers” or “decals” issued to the machine owner
28 and to the location owner or operator to show proof of payment of the
29 permit tax.
- 30 Sec. 2. (a) (1) Every owner, distributor, operator or vendor, except
31 an owner holding a bona fide coin operated amusement machine solely
32 for personal use or resale, who distributes, sells, operates or vends any
33 bona fide coin operated amusement machine or machines for commercial
34 use and for play by others in this state shall pay an annual master license
35 tax of \$2,500.
- 36 (2) Every location where a bona fide coin operated amusement ma-
37 chine or machines are made available for commercial use and for play by
38 others in this state shall pay an annual location license tax of \$250.
- 39 (3) The cost of a license issued under this section shall be paid to the
40 director by company check, cash, cashier’s check or money order. Upon
41 such payment, the director shall issue a master license certificate to the
42 machine owner, distributor, operator or vendor and a location license
43 certificate to the location facility where the machine or machines are

1 made available for use and for play. The license tax levied by this section
2 shall be collected by the director on an annual basis. The director may
3 establish procedures for license collection and set due dates for these
4 license payments. No refund or credit of the license charge levied by this
5 section may be allowed to any owner, distributor, operator or vendor, or
6 location who ceases the operation of bona fide coin operated amusement
7 machines prior to the expiration of the license.

8 (b) Copies of both the master license and the location license shall
9 be prominently displayed at all locations where the bona fide coin oper-
10 ated amusement machines are available for commercial use to evidence
11 the payment of taxes levied under this section.

12 (c) Each master license and location license shall list the name of the
13 licensee and shall have a control number which corresponds with the
14 control number issued on the machine permit sticker to allow for effective
15 monitoring of the licensing and permit system.

16 (d) The director may provide a duplicate master license or location
17 license certificate if the original license certificate has been lost, stolen
18 or destroyed prior to its expiration. The tax for a duplicate original license
19 certificate is \$100. If the original license certificate is lost, stolen or de-
20 stroyed, a sworn, written statement shall be submitted explaining the
21 circumstances by which the license was lost, stolen or destroyed and in-
22 clude the number of the lost, stolen or destroyed license certificate before
23 a duplicate original license certificate can be issued. A license for which
24 a duplicate license certificate has been issued is void.

25 (e) A master license under this section:

- 26 (1) Is effective for a single business entity;
- 27 (2) vests no property or right in the licensee except to conduct the
28 licensed business during the period the license is in effect;
- 29 (3) is nontransferable, nonassignable and not subject to the execution;
- 30 (4) expires upon the death of an individual licensee or upon the dis-
31 solution of any other licensee; and
- 32 (5) shall be valid for a period of one year from the date of purchase.

33 (f) Acceptance of a master license or location license, or both, issued
34 under this section constitutes consent by the licensees that the director
35 or the director's agents may freely enter the licensed location premises
36 where bona fide coin operated amusement machines are available for use,
37 during normal business hours, for the purpose of ensuring compliance
38 with this section.

39 (g) An application for a master license to do business under this sec-
40 tion shall contain a complete statement regarding the ownership of the
41 business to be licensed.

42 (h) The application shall be accompanied by the annual tax.

43 (i) A renewal application after a master license or location license

1 expires, shall be accompanied by a late fee of \$125 in addition to the
2 annual license tax. If a master license or location license has been expired
3 for more than 90 days, the licensee may not renew the license. In such
4 case, the licensee shall obtain a new license by complying with the
5 requirements and procedures for obtaining an original license.

6 (j) A licensee who properly completes the application and remits all
7 taxes with it by the due date may continue to operate bona fide coin
8 operated amusement machines after the expiration date if its license re-
9 newal has not been issued, unless the licensee is notified by the director
10 prior to the license expiration date of a problem with the license renewal.

11 (k) A location license issued under this section:

12 (1) Is effective for a single location only;

13 (2) vests no property right in the licensee except to conduct the op-
14 eration of a licensed bona fide coin operated amusement machine during
15 the period the license is in effect;

16 (3) is nontransferable and nonassignable by and between other lo-
17 cations and entities; and

18 (4) expires upon the death of an individual licensee or upon the dis-
19 solution of any other licensee.

20 Sec. 3. (a) Every licensee who offers others the opportunity to play
21 for a charge, whether direct or indirect, any bona fide coin operated
22 amusement machine shall each pay an annual permit tax of \$100 per bona
23 fide coin operated amusement machine. The tax shall be paid to the
24 director by company check, cash, cashier's check or money order. Upon
25 payment, the director shall issue a sticker, valid for one year from the
26 date of purchase, for each coin operated machine for the master license
27 holder for each machine and one to the location license holder for each
28 machine. The annual taxes levied by this section shall be collected by the
29 director on an annual basis. The director may establish procedures for
30 annual collection and set due dates for the tax payments. No refund or
31 credit of the annual tax levied by this section shall be allowed to any
32 licensee who ceases the exhibition or display of any coin operated ma-
33 chine prior to the expiration date of the permit sticker.

34 (b) The permit stickers issued by the director to evidence the pay-
35 ment of the taxes under this section shall be securely attached to the
36 machine. Master license holders may transfer stickers from one machine
37 to another and machines from location to location so long as all machines
38 in commercial use available for play have a permit sticker and the master
39 license holder uses the permit stickers only for machines that it owns.

40 (c) Each permit sticker shall not list the name of the license holder
41 but shall have a control number which corresponds with the control num-
42 ber issued on the license certificate to allow for effective monitoring of
43 the licensing and permit system. Permit stickers are only required for

1 bona fide coin operated amusement machines in commercial use available
2 for play.

3 (d) The director may provide a duplicate permit sticker if a valid
4 permit sticker has been lost, stolen or destroyed prior to its expiration.
5 The tax for a duplicate permit sticker shall be \$10. If a permit sticker is
6 lost, stolen or destroyed, a sworn, written statement shall be submitted
7 explaining the circumstances by which the permit sticker was lost, stolen
8 or destroyed and include the number of the lost, stolen or destroyed
9 permit before a replacement permit sticker shall be issued. A permit
10 sticker for which a duplicate permit sticker has been issued is void.

11 (e) If an additional coin operated amusement machine is purchased
12 or received for operation within this state in the calendar year, the permit
13 taxes prescribed in this section shall be paid to the director and the sticker
14 shall be affixed to the machine before the machine may be legally oper-
15 ated. A penalty tax shall be assessed by the director for every machine in
16 operation without a permit sticker.

17 Sec. 4. (a) If any owner or operator of any bona fide coin operated
18 amusement machine in this state violates any provision of section 1 et
19 seq., and amendments thereto, or any rule and regulation promulgated
20 thereunder, the director may investigate the violation and may provide
21 sanctions as follows:

22 (1) For a first offense:

23 (A) The director, an authorized representative of the director, or any
24 law enforcement officer may seal in a manner that will prevent its full
25 operation any such bona fide coin operated amusement machine that is
26 in commercial use available for play that does not have the requisite per-
27 mit stickers or whose permit stickers issued under section 1 et seq., and
28 amendments thereto, have expired or have been suspended or revoked;

29 (B) a citation shall be issued to the location, with copy sent to regu-
30 latory agency, which shall be presented at time of license and permit
31 application; and

32 (C) payment of proper license and permit tax and fines of \$200 for
33 each such unregistered machine in operation.

34 (2) For a second offense:

35 (A) All sanctions provided in subsection (a)(1) (A) through (C); and

36 (B) all late taxes shall be doubled.

37 (3) For a third offense: All license and sticker applications shall be
38 denied.

39 (b) The director shall charge a release tax of \$75 for the release of
40 any bona fide coin operated amusement machine which is sealed. The
41 tax shall be paid to the director.

42 Sec. 5. (a) The director shall remit all moneys received by or for the
43 director under section 1, et seq., and amendments thereto, to the state

1 treasurer in accordance with the provisions of K.S.A. 75-4215, and
2 amendments thereto. Upon receipt of each such remittance, the state
3 treasurer shall deposit the entire amount in the state treasury to the credit
4 of the state general fund.

5 (b) The director may promulgate rules and regulations to carry out
6 the provisions of this act.

7 Sec. 6. (a) Criminal removal of a permit sticker is the intentional
8 removal of a current permit sticker by a person other than a master license
9 holder from a bona fide coin operated amusement machine or from the
10 location where the machine is located.

11 (b) As used in this section, unless otherwise appropriate, terms shall
12 have the meanings as defined in section 1 et seq., and amendments
13 thereto.

14 (c) Criminal removal of a permit sticker is a class C nonperson
15 misdemeanor.

16 Sec. 7. (a) Criminal acquisition of a permit sticker is securing or at-
17 tempting to secure a permit sticker by fraud, misrepresentation or
18 subterfuge.

19 (b) As used in this section, unless otherwise appropriate, terms shall
20 have the meanings as defined in section 1 et seq., and amendments
21 thereto.

22 (c) Criminal acquisition of a permit sticker is a severity level 9, non-
23 person felony.

24 Sec. 8. (a) Criminal use of machines is:

25 (1) Breaking a seal affixed by the director of alcoholic beverage con-
26 trol or the director's authorized representative or law enforcement officer
27 without approval of the director;

28 (2) providing in commercial use available for play any bona fide coin
29 operated amusement machine after the seal has been broken without
30 approval of the director; or

31 (3) removing any bona fide coin operated amusement machine from
32 its location after such machine has been sealed by the director.

33 (b) As used in this section, unless otherwise appropriate, terms shall
34 have the meanings as defined in section 1, and amendments thereto.

35 (c) Criminal use of machines is a class C nonperson misdemeanor.

36 Sec. 9. This act shall take effect and be in force from and after its
37 publication in the statute book.