

CHAPTER 2015-93

Committee Substitute for House Bill No. 641

An act relating to amusement games or machines; creating s. 546.10, F.S.; creating the “Family Amusement Games Act”; providing legislative findings; defining terms; authorizing operation of an amusement game or machine pursuant to specified provisions; providing classifications for such a devices; providing that specified types of amusement games or machines may only be located at certain locations; specifying the maximum value on the redemption value of a coupon or a point; requiring the Department of Revenue to annually adjust the maximum value; providing a formula for adjustment of the maximum value; requiring the department to publish the amount of the adjusted maximum value; authorizing certain persons or entities to enjoy the operation of an amusement game or machine; providing penalties; amending s. 551.102, F.S.; conforming a cross-reference; repealing s. 849.161, F.S., relating to amusement games or machines; providing an effective date.

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

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

546.10 Amusement games or machines.—

(1) This section may be cited as the “Family Amusement Games Act.”

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

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

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

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

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

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

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

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

(c) “Card” means a card other than a credit card or debit card:

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

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

3. Which is prefunded.

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

(d) “Game play” means the process of events beginning with the activation of the amusement game or machine and ending when the results of play are determined without the insertion or the use of any additional currency, coin, card, coupon, slug, token, or similar device to continue play. A free replay is not a separate game played.

(e) “Material element of chance inherent in the game or machine” means that:

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

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

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

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

5. The accomplishment of the player’s task requires the exercise of a skill that no player could exercise;

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

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

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

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

2. An alcoholic beverage;

3. A tobacco product;

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

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

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

(g) “Redemption value” means the imputed value of a coupon or a point, based on the wholesale cost of merchandise for which the individual may redeem the coupon or point.

(h) “Truck stop” means a dealer registered pursuant to chapter 212, excluding a marina, which:

1. Declares the sale of diesel fuel to be its primary fuel business.

2. Operates at least six functional diesel fuel pumps.

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

(5) For purposes of this section:

(a) “Type A” is an amusement game or machine that, upon activation and game play, does not deliver, entitle, or enable a person playing or operating the amusement game or machine to receive cash, billets, tickets, tokens, points, coupons, merchandise, or any other thing of value, including electronic credits to be exchanged for cash, regardless of whether such

things are delivered or paid automatically from the machine or manually. However, Type A amusement games and machines may entitle or enable a person to replay the game without the insertion or use of any additional currency, coin, card, coupon, slug, token, or similar device, only if:

1. The amusement game or machine can accumulate and react to no more than 15 such replays;

2. The amusement game or machine can be discharged of accumulated replays only by reactivating the game or device for one additional play for each accumulated replay;

3. The amusement game or machine cannot make a permanent record, directly or indirectly, of any free replay;

4. The amusement game or machine does not entitle the player to receive anything of value other than a free replay;

5. An unused free replay may not be exchanged for anything of value, including merchandise or a coupon or a point that may be redeemed for merchandise; and

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

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

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

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

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

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

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

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

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

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

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

a. An arcade amusement center;

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

c. A truck stop.

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

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

2. An arcade amusement center;

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

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

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

6. A truck stop; or

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

(7) For purposes of this section, the maximum value is \$5.25. Beginning September 30, 2017, and annually thereafter, the Department of Revenue shall calculate the maximum value as adjusted by the rate of inflation for the 12 months preceding September 1, rounded to the nearest 5 cents. In calculating the adjusted maximum value, the department shall multiply the previous maximum value by one plus the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, not seasonally adjusted, or a successor index as calculated by the United States Department of Labor. Each adjusted maximum value shall take effect on the following January 1, with the initial adjusted maximum value to take effect

on January 1, 2018. Beginning October 15, 2017, and annually thereafter, the department shall publish the maximum value, as adjusted, in a brochure accessible from its website relating to sales and use tax on amusement machines. If the release of the August Consumer Price Index for All Urban Consumers occurs after September 15, in any given year, the department shall publish the adjusted maximum value within 30 calendar days after the release date.

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

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

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

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

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

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

(8) “Slot machine” means any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made

automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both. A slot machine is not a “coin-operated amusement machine” as defined in s. 212.02(24) or an amusement game or machine as described in s. ~~546.10~~ ~~849.161~~, and slot machines are not subject to the tax imposed by s. 212.05(1)(h).

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

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

Approved by the Governor June 2, 2015.

Filed in Office Secretary of State June 2, 2015.