

Senate Bill 388

By: Senator Lucas of the 26th

**AS PASSED**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 27 of Title 50 of the Official Code of Georgia Annotated,  
2 relating to bona fide coin operated amusement machines, so as to provide a fee for a  
3 duplicate sticker; to prohibit the removal of a sticker without authorization; to provide that  
4 noncash redemption earned by a player shall not be deemed revenue from Class B machines  
5 for certain purposes; to revise the penalties for improper placement of machines; to prohibit  
6 certain actions with regard to bona fide coin operated amusement machines; to provide that  
7 certain unfair methods of competition and unfair and deceptive acts shall be unlawful; to  
8 provide for the terms of certain agreements; to provide for service in cases of disputes  
9 between licensees and location owners or operators; to provide for default judgments in  
10 certain circumstances; to provide for delays in hearings for good cause; to provide for  
11 related matters; to provide an effective date; to repeal conflicting laws; and for other  
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 style="text-align:center">**SECTION 1.**

15 Article 3 of Chapter 27 of Title 50 of the Official Code of Georgia Annotated, relating to  
16 bona fide coin operated amusement machines, is amended by revising Code  
17 Section 50-27-74, relating to right to notice and hearing, service of notice, and establishment  
18 of procedures, by adding a new subsection to read as follows:

19 "(d) At the time that a master licensee receives notice of a potential revocation of its master  
20 license as provided in this Code section, the master licensee shall be prohibited from  
21 assigning, selling, or otherwise transferring any of its contracts with location owners or  
22 location operators to any other master licensee or other person, and such prohibition shall  
23 remain in effect unless or until a final decision, not subject to further appeal, is rendered  
24 which does not result in the revocation of the master license. After a master license is  
25 revoked by final order and no other appeals are available, any contracts between a master  
26 licensee and a location owner or location operator for the providing of bona fide coin

27 operated amusement machines shall be null and void. Nothing in this subsection shall  
 28 prevent a location owner or location operator from exercising any contractual right to place  
 29 machines of another master licensee in such location."

30

### SECTION 2.

31 Said article is further amended by revising subsection (d) of Code Section 50-27-78, relating  
 32 to payment and collection of annual permit fee, permit stickers, and treatment of fees, and  
 33 adding a new subsection to read as follows:

34 "(d) The corporation may provide a duplicate permit sticker if a valid permit sticker has  
 35 been lost, stolen, or destroyed. The fee for a duplicate permit sticker shall be ~~\$50.00~~  
 36 \$25.00 for each Class A machine and \$125.00 for each Class B machine. If a permit  
 37 sticker is lost, stolen, or destroyed, a sworn, written statement must be submitted explaining  
 38 the circumstances by which the permit sticker was lost, stolen, or destroyed and including  
 39 the number of the lost, stolen, or destroyed permit before a replacement permit can be  
 40 issued. A permit for which a duplicate permit sticker has been issued is void."

41 "(h) It shall be unlawful to remove or deface a sticker which is attached to a machine  
 42 without authorization by the owner of the machine or the corporation. A violation of this  
 43 subsection shall be a misdemeanor."

44

### SECTION 3.

45 Said article is further amended by revising paragraph (3) of subsection (a) and paragraph (1)  
 46 of subsection (b) of Code Section 50-27-84, relating to limitation on percent of monthly  
 47 gross retail receipts derived from machines, monthly verified reports, issuance of fine or  
 48 revocation or suspension of license for violations, and submission of electronic reports, as  
 49 follows:

50 "(3) 'Gross retail receipts' means the total revenue derived by a business at any one  
 51 business location from the sale of goods and services and the commission earned at any  
 52 one business location on the sale of goods and services but shall not include revenue from  
 53 the sale of goods or services for which the business will receive only a commission. The  
 54 sale of goods or services for which the business will receive only a commission shall not  
 55 include the sale of any item which the business has purchased for resale. Revenue from  
 56 shall not include the sale of goods and services at wholesale ~~shall not be included."~~

57 "(b)(1) No location owner or location operator shall derive more than 50 percent of such  
 58 location owner's or location operator's monthly gross retail receipts for the business  
 59 location in which the Class B machine or machines are situated from such Class B  
 60 machines; provided, however, that revenues that are due to a master licensee or the

61 corporation or noncash redemption that is earned by the player shall not be deemed  
62 revenue derived from Class B machines."

63 **SECTION 4.**

64 Said article is further amended by revising subsection (b) of Code Section 50-27-87, relating  
65 to master licenses and requirements and restrictions for licensees, as follows:

66 "(b)(1) No bona fide coin operated amusement machine, its parts, or software or  
67 hardware shall be placed or leased in any location owner's or location operator's  
68 establishment except by a master licensee and only if the owner or agent of the location  
69 owner or location operator has entered into a written agreement with a master licensee  
70 for placement of the bona fide coin operated amusement machine. Beginning on July 1,  
71 2013, no person with or applying for a location owner's or location operator's license shall  
72 have an interest in any person or immediate family member of a person with a master  
73 license, or doing business as a distributor, or manufacturer in this state. A location owner  
74 or location operator may sell a bona fide coin operated amusement machine to anyone  
75 except another location owner or location operator. Failure to adhere to this subsection  
76 shall result in a fine of ~~not less than~~ up to \$50,000.00 and loss of the location owner's or  
77 location operator's license for a period of one to five years per incident and subject the  
78 location owner or location operator to the loss of any other state or local licenses held by  
79 the location owner or location operator. The corporation shall notify any state or federal  
80 agency that issues a license to such location owner or location operator of the breach of  
81 its duties under this article.

82 (2) A copy of the written agreement shall be on file in the master licensee's and the  
83 location owner's and location operator's place of business and available for inspection by  
84 individuals authorized by the corporation.

85 (3)(A) Any written agreement entered into after April 10, 2013, shall be exclusive as  
86 between one bona fide coin operated amusement machine master licensee and one  
87 location owner or location operator per location. Any agreement entered into before  
88 April 10, 2013, shall not be deemed void for failure to allocate revenue pursuant to  
89 Code Section 50-27-87.1 or 50-27-102, and notwithstanding any agreements between  
90 master licensees and location owners and location operators, both shall act in a manner  
91 that complies with this chapter.

92 (B) Any agreement entered into or renewed after the effective date of this  
93 subparagraph shall be for at least one year.

94 (C) Any applicant for a new location license for a location where machines have been  
95 placed at any time in the immediately preceding nine months shall either:

96 (i) Not place machines in such location for nine months from the date of the granting  
 97 of the location license; or

98 (ii) Formally accept an assignment of the written agreement between the master  
 99 licensee and the immediately preceding location owner or location operator; provided,  
 100 however, that the master licensee may refuse to assign the written agreement.

101 For the purposes of division (ii) of this subparagraph, the master licensee is the master  
 102 licensee that, in the nine months preceding the application for a new location license,  
 103 had the last written agreement with the immediately preceding location owner or  
 104 location operator or the master licensee that, in the nine months preceding the  
 105 application for a new location license, had requested or commenced a hearing pursuant  
 106 to Code Section 50-27-102, whichever had machines placed in the location first."

107 **SECTION 5.**

108 Said article is further amended by revising paragraphs (2) and (4) of subsection (d) of Code  
 109 Section 50-27-102, relating to role of corporation, implementation and certification,  
 110 separation of funds and accounting, and disputes, as follows:

111 "(2) The corporation shall have jurisdiction of all disputes between and among any  
 112 licensees or former licensees whose licenses were issued pursuant to this article relating  
 113 in any way to any agreement involving coin operated amusement machines, distribution  
 114 of funds, tortious interference with contract, other claims against a subsequent master  
 115 license holder or location owner, or any other claim involving coin operated amusement  
 116 machines; provided, however, that this paragraph shall not apply to any agreement which  
 117 expired on or before April 10, 2013. Except as provided in paragraph (1) of this  
 118 subsection, the corporation shall refer any dispute certified by any master licensee against  
 119 any other master licensee or any location owner or location operator or by any location  
 120 owner or location operator against any master licensee to a hearing officer. For the  
 121 purpose of service on licensees with respect to disputes, each licensee or former licensee  
 122 shall register and keep current with the corporation the name of an agent and his or her  
 123 address and an email address which shall be made available to any licensee on request.  
 124 Service by registered mail, courier delivery, or overnight mail delivered to the agent's  
 125 registered address and to the email address shall be adequate service on the licensee for  
 126 a hearing on the dispute. All disputes subject to the provisions of this Code section  
 127 certified by a master licensee, location owner, or location operator shall be decided by a  
 128 hearing officer approved or appointed by the corporation. The corporation shall adopt  
 129 rules and regulations governing the selection of hearing officers after consultation with  
 130 the Bona Fide Coin Operated Amusement Machine Operator Advisory Board. Costs of  
 131 the hearing officer's review, including any hearing set pursuant to this Code Section

132 section, shall be shared equally between the parties in the dispute unless provided  
 133 otherwise in the agreement or by the hearing officer; provided, however, that the  
 134 corporation shall not be responsible for any of the costs associated with the dispute  
 135 resolution mechanism set forth in this Code section. If any party fails to timely pay the  
 136 costs of the hearing officer's review within ten days of service of notice of costs by the  
 137 hearing officer, the hearing officer shall grant a default judgment on liability against the  
 138 nonpaying party. The hearing officer shall then consider evidence related to damages or  
 139 any other relief and shall render judgment based upon a preponderance of the evidence."  
 140 "(4) If requested by the master licensee or the location owner or location operator, the  
 141 hearing officer shall conduct a hearing as to the dispute, but in no case unless extended  
 142 by the hearing officer for good cause shall the hearing officer conduct a hearing more  
 143 than 90 days after he or she has been appointed or selected to decide the dispute. No  
 144 Class B bona fide coin operated amusement machine that is subject to the dispute  
 145 resolution mechanism required by this Code section shall be removed from the terminal  
 146 by a master licensee, location owner, or location operator or otherwise prevented by a  
 147 master licensee, location owner, or location operator from play by the public until a final  
 148 decision is entered and all appellate rights have been exhausted, or until the master  
 149 licensee and location owner or location operator agree to a resolution, whichever occurs  
 150 first."

151 **SECTION 6.**

152 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 153 without such approval.

154 **SECTION 7.**

155 All laws and parts of laws in conflict with this Act are repealed.