

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001

*As Engrossed: S2/8/01*  
**A Bill**

SENATE BILL 281

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5 By: Senator T. Smith  
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8 **For An Act To Be Entitled**

9 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS  
10 CODE REGARDING AMUSEMENT DEVICES.

11  
12 **Subtitle**

13 TO AMEND VARIOUS SECTIONS OF THE  
14 ARKANSAS CODE REGARDING AMUSEMENT  
15 DEVICES.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code 26-57-401 is amended to read as follows:

21 26-57-401. Purposes.

22 (a) The purposes of this section and §§ 26-57-306 [repealed] and 26-57-  
23 402—26-57-407 subchapter are to permit, license, and regulate the operation  
24 of coin-operated amusement games and to fix a penalty penalties for the  
25 violation of this section and §§ 26-57-306 [repealed] and 26-57-402—26-57-  
26 407 subchapter.

27 (b) It is the intent of this subchapter that any amusement machine or  
28 device properly licensed and operated in accordance with this subchapter shall  
29 not be considered a gambling or gaming machine, nor its operation a violation  
30 of the anti-gambling statutes of this state found in Title 5, Chapter 61, nor  
31 an illegal lottery in violation of Article 19, §14 of the Constitution of  
32 Arkansas.  
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34 SECTION 2. Arkansas Code 26-57-402 is amended to read as follows:

35 26-57-402. Definitions.

36 As used in this subchapter, unless the context otherwise requires:

1 (1) "Amusement devices" means any coin-operated machine, device,  
 2 or apparatus which provides amusement, diversion, or entertainment, ~~and~~  
 3 ~~includes, but is not limited to, such games as radio rifles, miniature~~  
 4 ~~football, golf, baseball, hockey, bumper pool, tennis, shooting galleries,~~  
 5 ~~pool tables, bowling, shuffleboard, pinball tables, marble tables, music~~  
 6 ~~vending phonographs, jukeboxes, cranes, video games, claw machines, bowling~~  
 7 ~~machines, countertop machines, novelty arcade machines, other similar musical~~  
 8 ~~devices for entertainment, and other miniature games, whether or not such~~  
 9 ~~machines show a score, and which are not otherwise excluded in this subchapter~~  
 10 but specifically excludes all machines and devices equipped with any automatic  
 11 money payoff mechanism, or which is classified by the United States Government  
 12 as requiring a federal gaming stamp under applicable provisions of the federal  
 13 Internal Revenue Code;

14 (2)(A) "Any money or property", "other articles", "other valuable  
 15 things", ~~or~~ "any representative of anything that is esteemed of value", "game  
 16 of chance", "gaming device", "gambling device", or "lottery", as used in the  
 17 anti-gambling statutes, § 5-66-101 et seq., shall not be expanded to include:

18 (i) A free amusement feature such as the privilege of  
 19 playing additional free games if a certain score is made on ~~a pinball table or~~  
 20 ~~on any other~~ an amusement game or device described in this ~~section~~ subchapter;  
 21 or

22 (ii) Toys, novelties, or representations of value  
 23 redeemable for those items which are won by the player of ~~a bona fide~~ an  
 24 amusement game or device licensed under this subchapter, which rewards players  
 25 exclusively with merchandise limited to toys, novelties, or representations of  
 26 value redeemable for those items, ~~which have a wholesale.~~ Such representation  
 27 of value shall not exceed the value not more than of ten (10) times the cost  
 28 charged to play the game or device once or five dollars (\$5.00), whichever is  
 29 less.

30 (B) In the event of the accumulation of redeemable  
 31 representations of value by any player, no toy or novelty having a wholesale  
 32 value of more than twelve dollars and fifty cents (\$12.50) may be given or  
 33 awarded by any amusement ~~machine~~ device operator or redeemed by any player.  
 34 Said toys and novelties shall be displayed in a single area on each premises—  
 35 ~~Furthermore,~~ and each operator shall maintain records validating the wholesale  
 36 value of said toys and novelties. ~~Said and said~~ said and said toys and novelties shall be

1 *located solely on the premises where the game is played;*

2 (C) Such toys and novelties shall not be redeemable either for cash or  
 3 for other valuable consideration by the player or any other person. The  
 4 redemption of toys and novelties in violation of this subdivision constitutes  
 5 a Class B misdemeanor;

6 (3) "Coin-operated" means any machine, device, or apparatus which  
 7 is operated by placing through a slot or any kind of opening or container any  
 8 coin, slug, token, or other object or article necessary to be inserted before  
 9 the machine operates or functions but does not include any machine or device  
 10 which is classified by the United States Government as requiring a federal  
 11 gaming stamp under applicable provisions of the Internal Revenue Code;

12 (4) "Location" means a single place or single premises, which  
 13 shall be a structure surrounded by fixed walls or fire walls consistent with  
 14 the requirements of the applicable building code, and without any windows or  
 15 doors leading to another area where video games are located;

16 ~~(4)(5)~~ "Novelty" means an article of trade whose value is chiefly  
 17 decorative, comic, or the like, and whose appeal is often transitory;

18 ~~(5)(6)~~ "Person" means and includes any individual, firm,  
 19 association, company, partnership, limited liability company, corporation,  
 20 joint-stock company, club, agency, syndicate, the State of Arkansas, county,  
 21 municipal corporation or other political subdivision of this state, receiver,  
 22 trustee, fiduciary, or trade association; ~~and~~

23 ~~(6)(7)~~ "Toy" means a small article of little value but prized as  
 24 a souvenir or for some other special reason, a trinket, a knickknack, or a  
 25 bauble;

26 (8) "Type 1 amusement devices" means those coin-operated  
 27 amusement and music machines or devices which permit a player to play or for  
 28 which only a score or the playing of free games, or both, can be acquired by  
 29 the player. The term includes music vending phonographs, juke boxes, radio  
 30 rifles, miniature football, golf, baseball, hockey, video games, bumper pool,  
 31 tennis, pool tables, bowling, shuffleboard, pinball tables, marble tables,  
 32 bowling machines, novelty arcade machines, and other similar machines;

33 (9) "Type 2 amusement devices" means coin-operated amusement  
 34 machines or devices for which a score, a prize, or a representation of value  
 35 may be acquired by the player. The term includes cranes, claw machines, and  
 36 any other machine which dispenses a prize or a representation of value which

1 can be redeemed for a prize, but does not include Type 3 amusement devices;  
 2 and

3 (10) "Type 3 amusement devices" means coin-operated video  
 4 amusement redemption machines and similar devices for which a score, skill  
 5 points, or representations of value, or any combination thereof, may be  
 6 acquired by the player. The term includes multiple choice video card games,  
 7 and other video redemption machines, such as video solitaire, trivia, tic-tac-  
 8 toe, phone card machines having a free prize feature, eight-liners and similar  
 9 devices.

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 11 SECTION 3. Arkansas Code 26-57-404 is amended to read as follows:

12 26-57-404. Privilege tax on amusement games - Limitation of number of  
 13 devices.

14 ~~(a) On each amusement game there shall be imposed an annual privilege~~  
 15 ~~tax of five dollars (\$5.00).~~ For purposes of this subchapter, all amusement  
 16 devices licensed under this subchapter shall be taxed as follows:

17 (1) There shall be an annual privilege tax of five dollars  
 18 (\$5.00) for each Type 1 and Type 2 amusement device; and

19 (2) There shall be an annual privilege tax of twenty-five dollars  
 20 (\$25.00) for each Type 3 amusement device.

21 (b) The Director of the Department of Finance and Administration shall  
 22 collect for each machine the full annual license fee when paid during the  
 23 first six (6) months of the fiscal year, but any license fee paid during the  
 24 last six (6) months of the fiscal year shall be upon the basis of one-half  
 25 (1/2) of the annual tax.

26 (c) The director may classify all amusement devices by type before  
 27 issuing any license and his or her final decision shall be final.

28 (d)(1) The number of Type 1 and Type 2 amusement devices at a given  
 29 location shall not be limited.

30 (2) The number of Type 3 amusement devices permitted at any  
 31 location shall not exceed three (3) and shall only be played by persons of at  
 32 least eighteen (18) years of age. *No Type 3 amusement devices shall be*  
 33 *located within one hundred (100) feet of any other location containing Type 3*  
 34 *amusement devices.*

35 (e) In the event of any question, the director or his designate may  
 36 determine whether a given location constitutes in reality a single place or a

1 single location. In doing so, factors to consider are whether each location  
 2 has separate utility meters, separate employees on the premises during  
 3 business hours, and separate local or state business licenses or permits, and  
 4 whether historically the premises has been operated as a single location for  
 5 business purposes. The decision of the director in making such determination  
 6 shall be final.

7 (f) In granting licenses for Types 1, 2, and 3 amusement devices, where  
 8 there is any question as to which type a given amusement device is qualified  
 9 for, the director shall determine the proper classification and his decision  
 10 shall be final.

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 12 SECTION 4. Arkansas Code 26-57-409 is amended to read as follows:

13 26-57-409. Annual license fee - Renewals.

14 (a) ~~The annual fee for the license provided for in § 26-57-412 shall:~~

15 ~~(1) For all licensees operating not more than three (3) amusement~~  
 16 ~~devices, be the sum of five hundred dollars (\$500); and~~

17 ~~(2) For all licensees operating more than three (3) amusement~~  
 18 ~~devices, be the sum of one thousand dollars (\$1,000). license fee for the~~  
 19 privilege of owning, operating or leasing coin-operated amusement devices  
 20 shall be two thousand dollars (\$2,000).

21 (b) However, those who restrict the placement of coin-operated  
 22 amusement devices exclusively to carnivals and county, district, and state  
 23 fairs shall pay a monthly license fee as follows:

24 ~~(1) Licensees operating not more than three (3) amusement~~  
 25 ~~devices, the sum of seventy five dollars (\$75.00) a month; and~~

26 ~~(2) Licensees operating more than three (3) amusement devices,~~  
 27 ~~the sum of one hundred fifty dollars (\$150) a month of one hundred fifty~~  
 28 dollars (\$150).

29 (c) Any licensee who operates amusement devices for more than three (3)  
 30 months in any one (1) calendar year is required to pay the annual fee for a  
 31 license.

32 (d) However, the residency requirements in § 26-57-410 do not apply to  
 33 those applicants whose placement of coin-operated amusement devices is limited  
 34 exclusively to carnivals and county, district, and state fairs. Such license  
 35 is valid for a maximum of three (3) months and may not be renewed, extended,  
 36 or reissued. No more than one (1) license may be issued in one (1) calendar

1 year.

2 (e)(1) Annual fees shall be paid on a fiscal-year basis beginning July  
3 1 of each year. Licenses issued subsequent to July 1 shall be paid for as  
4 though they were for a full year.

5 (2) However, licensees who restrict the operation of amusement  
6 devices to carnivals and county, district, and state fairs shall pay their  
7 license fee at least thirty (30) days prior to the opening of any carnival or  
8 county, district, or state fair in which they will be operating amusement  
9 devices.

10 /s/ T. Smith

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