

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GAMING
Senator Richter, Chair
Senator Sachs, Vice Chair

MEETING DATE: Monday, March 10, 2014

TIME: 2:30 —3:30 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Richter, Chair; Senator Sachs, Vice Chair; Senators Abruzzo, Benacquisto, Braynon, Clemens, Dean, Galvano, Gardiner, Latvala, Lee, Margolis, Montford, and Thrasher

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|-------------------------|--|------------------|
|-----|-------------------------|--|------------------|

A proposed committee substitute for the following bill (SB 668) is expected to be considered:

| | | | |
|---|---|---|--------------------------|
| 1 | SB 668 Stargel (Identical H 945, Compare H 1383) | Amusement Machines; Prohibiting merchandise from exceeding a specified value; requiring the Department of Revenue to calculate annually an adjusted cap on the per-game cost of merchandise; repealing provisions relating to an injunction to restrain violation, etc. | Fav/CS Yeas 13 Nays 0 |
| | | GM 03/10/2014 Fav/CS CM RC | |

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Gaming

BILL: CS/SB 668

INTRODUCER: Committee on Gaming

SUBJECT: Amusement Machines

DATE: March 10, 2014

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|------------|----------------|-----------|--------|
| 1. Kraemer | Guthrie | GM | Fav/CS |
| 2. | | CM | |
| 3. | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 668 amends section 849.161, Florida Statutes, which authorizes, with restrictions, amusement games or machines at specified locations. The bill:

- Provides that, in addition to activation by insertion of a coin, an amusement machine may be activated by currency, card, coupon, token, or similar device.
- Increases the maximum redemption value of points or coupons a player may receive for a single game played from 75 cents to \$5.25 and increases the maximum wholesale value of merchandise dispensed directly (e.g., “claw” machine) to 10 times that amount (\$52.50). The caps will be adjusted annually, based on changes in the consumer price index.
- Provides that amusement machines may be placed not only in arcades or truck stops (as allowed under current law), but also in certain bowling centers, hotels, or restaurants. Machines that dispense merchandise directly (e.g., “claw” machines) may be placed in those locations or on the premises of certain retailers.

II. Present Situation:

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines,⁴ but authorizes, with conditions, penny-ante games,⁵ bingo,⁶ charitable drawings,⁷ game promotions (sweepstakes),⁸ bowling tournaments,⁹ and amusement games and machines.¹⁰

Section 849.161, F.S., provides that gambling laws do not prohibit amusement games or machines that:

- Operate by insertion of a coin;
- May entitle a player, by application of skill, to receive points or coupons—the cost value of which does not exceed 75 cents on any game played—that may be exchanged onsite for merchandise; and
- Are located at an arcade amusement center with at least 50 coin-operated amusement games or machines or at a truck stop.

Current law specifically distinguishes and excludes the following from the exemption for amusement games or machines:

- Casino-style games in which the outcome is determined by factors unpredictable by the player (s. 849.161(1)(a), F.S.);
- Games in which the player does not control the outcome through skill (s. 849.161(1)(a), F.S.);
- Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (s. 849.161(4), F.S.);¹¹ or
- Video poker games or any other game or machine that may be construed as a gambling device under Florida law (s. 849.161(4), F.S.).

III. Effect of Proposed Changes:

The bill amends s. 849.161, F.S. It updates the definition “amusement games or machines” to include not only coin-operated machines, but also machines activated by insertion of currency, cards, coupons, slugs, tokens, or similar devices. The definition keeps the current law provision

¹ Section 849.08, F.S.

² Section 849.01, F.S.

³ Section 849.09, F.S.

⁴ Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.

⁵ Section 849.085, F.S.

⁶ Section 849.0931, F.S.

⁷ Section 849.0935, F.S.

⁸ Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

⁹ Section 849.141, F.S.

¹⁰ Section 849.161, F.S.

¹¹ Slot machines are included as gambling devices pursuant to 15 U.S.C. s. 1171, but pari-mutuel betting machinery for use at a racetrack, a coin-operated bowling alley, a shuffleboard, marble machine or pinball machine, or mechanical gun, if they are not designed and manufactured primarily for gambling, and which when operated do not deliver any money or property, or entitle a person to receive any money or property, and any so-called claw, crane, or digger machine and similar devices which are not operated by coin, are actuated by a crank, and are designed and manufactured primarily for use at carnivals or county or state fairs, are excluded pursuant to 15 U.S.C. s. 1178.

that the person playing an authorized game, by application of skill, controls the outcome. It also keeps the current law provision that amusement games or machines do not include casino-style games or “games in which the player does not control the outcome of the game through skill.” The bill expands the definition of “amusement games or machines” by repeating language from subsection (4) of the current law that authorized games do not include:

- Video poker games or any other game or machine that may be construed as a gambling device under Florida law; or
- Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (see footnote 10).

The bill moves prize restrictions out of the definition of “amusement games or machines” and into substantive provisions of law (specifically, subsections (5), (6), and (7)).

The bill amends the definition of “game played” to incorporate the new ways of activating a machine that are described in the updated definition of “amusement game or machine” (i.e., “by the insertion of currency, or a coin, card, coupon, slug, token, or similar device”).

The bill amends the definition of “merchandise” to specifically exclude not only (1) cash equivalents and (2) alcoholic beverages, but also (3) cards, tokens, or similar devices that can be used to activate a game, and (4) points or coupons—from a “direct merchandise” machine, for example—in excess of the limit that otherwise applies to points or coupons that may be redeemed onsite for other merchandise.

Subsection (2) keeps the current law provision that amusement games operated in conformance with s. 849.161, F.S., are exempt from the general prohibitions against gambling in ch. 849, F.S. Subsection (3) keeps the current law provision that the exemption applies only to machines that operated for entertainment of the public as bona fide amusement games.

Subsection (4) reiterates that the exemption for amusement games or machines does not authorize (1) casino-style games; (2) games in which the player does not control the outcome of the game through skill; (3) video poker games or any other game or machine that may be construed as a gambling device under Florida law; or (4) any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (see footnote 10). These distinctions and exclusions also appear in the definition of “amusement games or machines.”

Free replays—Subsection (5) updates language in current law that authorizes an amusement game or machine from which a person, by application of skill, may win replays, subject to the restrictions in current law that the game or machine cannot accumulate more than 15 free replays or make a permanent record of free replays are not changed.

Redeemable points or coupons—Subsection (6) updates language in current law that authorizes an amusement game or machine from which a person, by application of skill, can receive points or coupons that can be redeemed onsite for merchandise, subject to the following conditions:

- The amusement game or machine is located at an arcade amusement center or truck stop, which are the only locations allowed under current law, or at a bowling center, hotel, or restaurant;¹²
- Points or coupons have no value other than for redemption onsite for merchandise;
- The redemption value¹³ of points or coupons a person receives for a single game played does not exceed the cap specified in subsection (8), which is set at \$5.25 initially and adjusted for inflation annually; and
- The redemption value of points or coupons a person receives for playing multiple games simultaneously or competing against others in a multi-player game, does not exceed the cap specified in subsection (8).

Direct merchandise— Subsection (7) describes amusement games or machines from which a person, by application of skill, can receive merchandise directly (e.g., “claw machines”), provided:

- The amusement game or machine is located at an arcade amusement center, truck stop, bowling center, hotel, restaurant, or on the premises of a retailer as defined in s. 212.02, F.S.; and
- The wholesale cost of the merchandise does not exceed 10 times the cap specified in subsection (8).

Subsection (8) provides that the cap on the redemption value of points or coupons is set at \$5.25 initially and adjusted for inflation annually. The bill provides that the Department of Revenue annually will adjust the cap based on the change in the Consumer Price Index for All Urban Consumers, U.S. City Average, and the new cap will take effect July 1. The adjusted cap will be published in a brochure accessible from the Department of Revenue’s website relating to sales and use tax on amusement machines.¹⁴

Section 2 of the bill provides for an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹² The bill expands the places where an authorized amusement machine may be located to include bowling centers defined in s. 849.141, F.S., or a public lodging establishment or public food service facility licensed by the Department of Business and Professional Regulation pursuant to ch. 509, F.S.

¹³ The bill defines “redemption value” as the imputed value of coupons or points, based on the wholesale cost of merchandise for which those coupons or points may be redeemed. *See* s. 849.161(1)(e), F.S.

¹⁴ The current web address for the Department of Revenue’s publication relating to sales and use tax on amusement machines is <http://dor.myflorida.com/dor/forms/current/gt800020.pdf> (accessed March 10, 2014).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This bill does not have a significant private sector impact.

C. Government Sector Impact:

This bill does not have a significant government sector impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill allows an amusement machine to be activated by “currency or a coin, card, coupon, slug, token, or similar device.” The term “card” is not defined in s. 849.161(1), F.S., and members of the Senate Committee on Gaming discussed inserting language to specify that it does not include a debit card or a credit card.

VIII. Statutes Affected:

This bill substantially amends section 849.161 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Gaming on March 10, 2014:

- CS/SB 668 clarifies that an amusement game or machine is one which, by application of skill, a person controls the outcome of the game.
- CS/SB 668 sets the maximum wholesale value of merchandise dispensed directly by an amusement machine (e.g., “claw” machine) at \$52.50 initially and provides for annual adjustments, based on changes in the consumer price index. SB 668 would set the maximum wholesale value of such merchandise at \$50.
- CS/SB 668 simplifies the method the Department of Revenue will apply to publish annual adjustments in limits on the redemption value of points or coupons, based on changes in the consumer price index.

- CS/SB 668 provides that amusement machines may be placed not only in arcades or truck stops, as allowed under current law, but also in certain bowling centers, hotels, or restaurants. CS/SB 668 further provides that machines that dispense merchandise directly (e.g., “claw” machines) may be placed in those locations or on the premises of certain retailers. SB 668 would eliminate the current law restriction that amusement machines may be placed only in arcades or truck stops.
- CS/SB 668 does not amend or repeal s. 849.21, F.S., which allows any person to petition for an injunction against illegal slot machines or devices. SB 668 would repeal that section.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Gaming; and Senators Stargel and Abruzzo

584-02365-14

2014668c1

A bill to be entitled

An act relating to amusement machines; amending s. 849.161, F.S.; redefining terms; revising applicability; clarifying provisions and making technical changes; authorizing direct receipt of merchandise under certain circumstances; specifying a cap on the redemption value of points or coupons; requiring the Department of Revenue to calculate annually an adjusted cap; requiring the department to publish the amount of the adjusted cap in a brochure accessible from its website; providing an effective date.

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

Section 1. Section 849.161, Florida Statutes, is amended to read:

~~849.161 Amusement games or machines; when chapter inapplicable.—~~

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

(a) "Amusement games or machines" means games which are operated only for bona fide entertainment of the general public, which are activated which operate by means of the insertion of currency or a coin, card, coupon, slug, token, or similar device, and which, by application of skill, may entitle the person playing or operating the game or machine controls the outcome of the game to receive points or coupons, the cost value of which does not exceed 75 cents on any game played, which may be exchanged for merchandise. The term does not include:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2014668c1

- 30 1. Casino-style games in which the outcome of the game is determined by factors unpredictable by the player; ~~or~~
- 31 2. Games in which the player does ~~may~~ not control the outcome of the game through skill;
- 32 3. Video poker games or any other game or machine that may be construed as a gambling device under the laws of this state;
- 33 or
- 34 4. Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178.

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

(c) "Game played" means the event occurring from the initial activation of the amusement game or machine by the insertion of currency or a coin, card, coupon, slug, token, or similar device, until the results of play are determined without the insertion of additional currency or an additional coin, card, coupon, slug, token, or similar device, to continue play payment of additional consideration. Free replays do not count as separate games played constitute additional consideration.

(d) "Merchandise" means noncash prizes, including toys and novelties. The term does not include:

- 53 1. Cash equivalents or any equivalent thereof, including gift cards or certificates; ~~or~~
- 54 2. Alcoholic beverages;
- 55 3. Cards, coupons, points, slugs, tokens, or similar devices that can be used to activate an amusement game or machine; or

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59 4. Points or coupons that have redemption value greater
 60 than the cap calculated pursuant to subsection (8).
 61 (e) "Redemption value" means the imputed value of coupons
 62 or points, based on the wholesale cost of onsite merchandise for
 63 which those coupons or points may be redeemed.
 64 (f) (e) "Truck stop" means a any dealer registered pursuant
 65 to chapter 212, excluding marinas, which:
 66 1. Declared its primary fuel business to be the sale of
 67 diesel fuel; and
 68 2. Operates a minimum of six functional diesel fuel pumps;
 69 and
 70 3. Has coin operated amusement games or machines on
 71 premises which are operated for the entertainment of the general
 72 public and tourists as bona fide amusement games or machines.
 73 (2) Nothing contained in This chapter does not shall be
 74 taken or construed to prohibit an arcade amusement center or
 75 truck stop from operating amusement games or machines operated
 76 in conformance with this section.
 77 (3) This section applies only to amusement games or and
 78 machines which are operated for the entertainment of the general
 79 public and tourists as bona fide amusement games or machines.
 80 (4) This section does shall not be construed to authorize:
 81 (a) Casino-style games in which the outcome of the game is
 82 determined by factors unpredictable by the player;
 83 (b) Games in which the player does not control the outcome
 84 of the game through skill;
 85 (c) Video poker games or any other game or machine that may
 86 be construed as a gambling device under the laws of this state;
 87 or

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88 (d) Any game or device defined as a gambling device in 15
 89 U.S.C. s. 1171, which requires identification of each device by
 90 permanently affixing seriatim numbering and name, trade name,
 91 and date of manufacture under s. 1173, and registration with the
 92 United States Attorney General, unless excluded from
 93 applicability of the chapter under s. 1178, or video poker games
 94 or any other game or machine that may be construed as a gambling
 95 device under Florida law.
 96 (5) An amusement game or machine may entitle or enable a
 97 person, by application of skill, This section does not apply to
 98 a coin-operated game or device designed and manufactured only
 99 for bona fide amusement purposes which game or device may by
 100 application of skill entitle the player to replay the game or
 101 device without the insertion of at no additional currency or an
 102 additional coin, card, coupon, slug, token, or similar device,
 103 if cost, if the game or device:
 104 (a) The amusement game or machine can accumulate and react
 105 to no more than 15 free replays;
 106 (b) The amusement game or machine can be discharged of
 107 accumulated free replays only by reactivating the game or device
 108 for one additional play for such accumulated free replay; and
 109 (c) The amusement game or machine cannot ~~can~~ make a ~~no~~
 110 permanent record, directly or indirectly, of free replays; and
 111 is not classified by the United States as a gambling device in
 112 15 U.S.C. s. 1171, which requires identification of each device
 113 by permanently affixing seriatim numbering and name, trade name,
 114 and date of manufacture under s. 1173, and registration with the
 115 United States Attorney General, unless excluded from
 116 applicability of the chapter under s. 1178. This subsection

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117 shall not be construed to authorize video poker games, or any
 118 other game or machine that may be construed as a gambling device
 119 under Florida law.

120 (6) An amusement game or machine may entitle or enable a
 121 person, by application of skill, to receive points or coupons
 122 that can be redeemed onsite for merchandise, if:

123 (a) The amusement game or machine is located at an arcade
 124 amusement center, truck stop, bowling center defined in s.
 125 849.141, or public lodging establishment or public food service
 126 facility licensed pursuant to chapter 509;

127 (b) Points or coupons have no value other than for
 128 redemption onsite for merchandise;

129 (c) The redemption value of points or coupons a person
 130 receives for a single game played does not exceed the cap
 131 calculated pursuant to subsection (8); and

132 (d) The redemption value of points or coupons a person
 133 receives for playing multiple games simultaneously or competing
 134 against others in a multi-player game, does not exceed the cap
 135 calculated pursuant to subsection (8).

136 (7) An amusement game or machine may entitle or enable a
 137 person, by application of skill, to receive merchandise
 138 directly, if:

139 (a) The amusement game or machine is located at an arcade
 140 amusement center, truck stop, bowling center defined in s.
 141 849.141, public lodging establishment or public food service
 142 facility licensed pursuant to chapter 509, or on the premises of
 143 a retailer as defined in s. 212.02; and

144 (b) The wholesale cost of the merchandise does not exceed
 145 10 times the cap calculated pursuant to subsection (8).

Page 5 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

584-02365-14 2014668c1

146 (8) The cap on the redemption value of points or coupons is
 147 \$5.25. Beginning July 1, 2015, and annually thereafter, the
 148 Department of Revenue shall adjust the cap by multiplying the
 149 prior cap by 1 plus the percentage change in the Consumer Price
 150 Index for All Urban Consumers, U.S. City Average, or a successor
 151 index as calculated by the United States Department of Labor,
 152 for the most recent 12-month period ending March 31, and
 153 rounding the product to the nearest cent. The Department of
 154 Revenue shall publish the cap, as adjusted, in a brochure
 155 accessible from its website relating to sales and use tax on
 156 amusement machines.

157 Section 2. This act shall take effect July 1, 2014.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Gaming
ITEM: SB 668
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, March 10, 2014
TIME: 2:30 —3:30 p.m.
PLACE: 110 Senate Office Building

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

THE FLORIDA SENATE
APPEARANCE RECORD

March 10, 2017

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic Anusement Machines

Bill Number 668
(if applicable)

Name Larry Sellers

Amendment Barcode _____
(if applicable)

Job Title _____

Address 315 S. Calhoun St, [#]600
Street
Tallahassee, FL 32301
City State Zip

Phone _____

Speaking: For Against Information

E-mail _____

Representing Dave & Buster's

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

Topic _____

Bill Number _____

680

(if applicable)

Name _____

BRIAN NESWOLD

Amendment Barcode _____

(if applicable)

Job Title _____

PRESIDENT - FAMILY FUN CENTER

Address _____

4825 South Florida Ave

Phone _____

863-444-7658

Street

LAKELAND

FL

33813

City

State

Zip

Speaking: For

Against

Information

Representing _____

Family Fun Center / AMOAR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/10/14

Meeting Date

Topic Amusement Games

Bill Number

668

(if applicable)

Name DANIEL PIZZI

Amendment Barcode

(if applicable)

Job Title Director of Operations

Address 820 Capital Circle NE

Street

TALLAHASSEE, FL 32301

City

State

Zip

Speaking: For Against Information Waive in support

Phone

E-mail d.pizzi@bowlsoc.com

Representing Bowling Centers Association of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/10/14

Meeting Date

Topic Amusement Machine

Bill Number 668
(if applicable)

Name MARK BRISSON

Amendment Barcode _____
(if applicable)

Job Title DIRECTOR OF MARKETING

Address 5700 FUN SPOT WAY
Street

Phone 407-363-3867 x110

ORLANDO FL 32817
City State Zip

E-mail mbrisson@Fun-Spot.com

Speaking: For Against Information

Representing FUN SPOT ATTRACTIONS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

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APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-10-14

Meeting Date

Topic S 648Bill Number S 648
(if applicable)Name Mike BarnesAmendment Barcode _____
(if applicable)Job Title OWNERAddress 959 Bay Mgr Dr Phone 515 490 3000

Street

City

State

Zip

Harris Beach Fl 33931 E-mail Mike S BarnesProperties.comSpeaking: For Against InformationRepresenting ZoomersAppearing at request of Chair: Yes NoLobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

SF

APPEARANCE RECORD3-10-14

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3-10Topic Regulation of Amusement MachinesName Michael BloreJob Title General ManagerAddress 3011 N. Ocean Dr #6

Street

HollywoodState FLZip 33019

City

Speaking: For Against InformationRepresenting Palace Entertainment - BoomersAppearing at request of Chair: Yes NoLobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-10-14

Meeting Date

Topic RELATING TO Amusement Machines Bill Number 668
(if applicable)

Name Bill Lupper Amendment Barcode _____
(if applicable)

Job Title President

Address 1114 N. Grosvenor Sr. Phone 850 222-2885-
Street
Tallahassee FL State 72303 Zip

City *FLORIDA ATTRACTIONS*
E-mail Lupper@
ORL

Speaking: For Against Information

Representing FL Attractions Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10 March 2014

Meeting Date

Topic Relating to Amusement Machines

Bill Number SD668
(if applicable)

Name Stephanie See

Amendment Barcode _____
(if applicable)

Job Title Director, Safety + Advocacy

Address 1448 Duke Street

Phone 703 299 5755

Street

Alexandria, Va. 22314

State

Zip

City State Zip
Speaking: For Against Information

E-mail SSee@iaapa.org

Representing International Association of Amusement Parks + Attractions

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-10-14

Meeting Date

Topic Amusement machines

Bill Number 668
(if applicable)

Name Richard Turner

Amendment Barcode _____
(if applicable)

Job Title V.P. Government Relations

Address 230 S. Adams St
Street

Phone 850.224.2250

Tallahassee FL 32301
City State Zip

E-mail rturner@fla.org

Speaking: For Against Information

Representing Florida Restaurant & Lodging Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-10-14

Meeting Date

Topic _____

Bill Number _____

688 + PCS

(if applicable)

Name _____

Amendment Barcode _____

Marc Dunbar

(if applicable)

Job Title _____

Address _____

Phone _____

Po Box 351

Street

Tallahassee

State
FL

Zip
32301

City

Speaking: For

Against

Information

E-mail _____

mdunbar@comcast.net

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Gaming

BILL: PCS/SB 668 (457456)

INTRODUCER: Committee on Gaming

SUBJECT: Amusement Machines

DATE: March 7, 2014

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|------------|----------------|-----------|--------------------|
| 1. Kraemer | Guthrie | GM | Pre-meeting |
| 2. | | CM | |
| 3. | | RC | |

I. Summary:

PCS/SB 668 amends section 849.161, Florida Statutes, which authorizes, with restrictions, amusement games or machines at specified locations. The bill:

- Provides that, in addition to activation by insertion of a coin, an amusement machine may be activated by currency, card, coupon, token, or similar device.
- Increases the maximum redemption value of points or coupons a player may receive for a single game played from 75 cents to \$5.25 and increases the maximum wholesale value of merchandise dispensed directly (e.g., “claw” machine) to 10 times that amount (\$52.50). The caps will be adjusted annually, based on changes in the consumer price index.
- Provides that amusement machines may be placed not only in arcades or truck stops (as allowed under current law), but also in certain bowling centers, hotels, or restaurants. Machines that dispense merchandise directly (e.g., “claw” machines) may be placed in those locations or on the premises of certain retailers.

II. Present Situation:

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines,⁴

¹ Section 849.08, F.S.

² Section 849.01, F.S.

³ Section 849.09, F.S.

⁴ Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.

but authorizes, with conditions, penny-ante games,⁵ bingo,⁶ charitable drawings,⁷ game promotions (sweepstakes),⁸ bowling tournaments,⁹ and amusement games and machines.¹⁰

Section 849.161, F.S., provides that gambling laws do not prohibit amusement games or machines that:

- Operate by insertion of a coin;
- May entitle a player, by application of skill, to receive points or coupons—the cost value of which does not exceed 75 cents on any game played—that may be exchanged onsite for merchandise; and
- Are located at an arcade amusement center with at least 50 coin-operated amusement games or machines or at a truck stop.

Current law specifically distinguishes and excludes the following from the exemption for amusement games or machines:

- Casino-style games in which the outcome is determined by factors unpredictable by the player (s. 849.161(1)(a), F.S.);
- Games in which the player does not control the outcome through skill (s. 849.161(1)(a), F.S.);
- Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (s. 849.161(4), F.S.);¹¹ or
- Video poker games or any other game or machine that may be construed as a gambling device under Florida law (s. 849.161(4), F.S.).

III. Effect of Proposed Changes:

The bill amends s. 849.161, F.S. It updates the definition “amusement games or machines” to include not only coin-operated machines, but also machines activated by insertion of currency, cards, coupons, slugs, tokens, or similar devices. The definition keeps the current law provision that the person playing an authorized game, by application of skill, controls the outcome. It also keeps the current law provision that amusement games or machines do not include casino-style games or “games in which the player does not control the outcome of the game through skill.” The bill expands the definition of “amusement games or machines” by repeating language from subsection (4) of the current law that authorized games do not include:

- Video poker games or any other game or machine that may be construed as a gambling device under Florida law; or

⁵ Section 849.085, F.S.

⁶ Section 849.0931, F.S.

⁷ Section 849.0935, F.S.

⁸ Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

⁹ Section 849.141, F.S.

¹⁰ Section 849.161, F.S.

¹¹ Slot machines are included as gambling devices pursuant to 15 U.S.C. s. 1171, but pari-mutuel betting machinery for use at a racetrack, a coin-operated bowling alley, a shuffleboard, marble machine or pinball machine, or mechanical gun, if they are not designed and manufactured primarily for gambling, and which when operated do not deliver any money or property, or entitle a person to receive any money or property, and any so-called claw, crane, or digger machine and similar devices which are not operated by coin, are actuated by a crank, and are designed and manufactured primarily for use at carnivals or county or state fairs, are excluded pursuant to 15 U.S.C. s. 1178.

- Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (see footnote 10).

The bill moves prize restrictions out of the definition of “amusement games or machines” and into substantive provisions of law (specifically, subsections (5), (6), and (7)).

The bill amends the definition of “game played” to incorporate the new ways of activating a machine that are described in the updated definition of “amusement game or machine” (i.e., “by the insertion of currency, or a coin, card, coupon, slug, token, or similar device”).

The bill amends the definition of “merchandise” to specifically exclude not only (1) cash equivalents and (2) alcoholic beverages, but also (3) cards, tokens, or similar devices that can be used to activate a game, and (4) points or coupons—from a “direct merchandise” machine, for example—in excess of the limit that otherwise applies to points or coupons that may be redeemed onsite for other merchandise.

Subsection (2) keeps the current law provision that amusement games operated in conformance with s. 849.161, F.S., are exempt from the general prohibitions against gambling in ch. 849, F.S. Subsection (3) keeps the current law provision that the exemption applies only to machines that operated for entertainment of the public as bona fide amusement games.

Subsection (4) reiterates that the exemption for amusement games or machines does not authorize (1) casino-style games; (2) games in which the player does not control the outcome of the game through skill; (3) video poker games or any other game or machine that may be construed as a gambling device under Florida law; or (4) any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (see footnote 10). These distinctions and exclusions also appear in the definition of “amusement games or machines.”

Free replays—Subsection (5) updates language in current law that authorizes an amusement game or machine from which a person, by application of skill, may win replays, subject to the restrictions in current law that the game or machine cannot accumulate more than 15 free replays or make a permanent record of free replays are not changed.

Redeemable points or coupons—Subsection (6) updates language in current law that authorizes an amusement game or machine from which a person, by application of skill, can receive points or coupons that can be redeemed onsite for merchandise, subject to the following conditions:

- The amusement game or machine is located at an arcade amusement center or truck stop, which are the only locations allowed under current law, or at a bowling center, hotel, or restaurant;¹²
- Points or coupons have no value other than for redemption onsite for merchandise;

¹² The bill expands the places where an authorized amusement machine may be located to include bowling centers defined in s. 849.141, F.S., or a public lodging establishment or public food service facility licensed by the Department of Business and Professional Regulation pursuant to ch. 509, F.S.

- The redemption value¹³ of points or coupons a person receives for a single game played does not exceed the cap specified in subsection (8), which is set at \$5.25 initially and adjusted for inflation annually; and
- The redemption value of points or coupons a person receives for playing multiple games simultaneously or competing against others in a multi-player game, does not exceed the cap specified in subsection (8).

Direct merchandise— Subsection (7) describes amusement games or machines from which a person, by application of skill, can receive merchandise directly (e.g., “claw machines”), provided:

- The amusement game or machine is located at an arcade amusement center, truck stop, bowling center, hotel, restaurant, or on the premises of a retailer as defined in s. 212.02; and
- The wholesale cost of the merchandise does not exceed 10 times the cap specified in subsection (8).

Subsection (8) provides that the cap on the redemption value of points or coupons is set at \$5.25 initially and adjusted for inflation annually. The bill provides that the Department of Revenue annually will adjust the cap based on the change in the Consumer Price Index for All Urban Consumers, U.S. City Average, and the new cap will take effect July 1. The adjusted cap will be published in a brochure accessible from the Department of Revenue’s website relating to sales and use tax on amusement machines.¹⁴

Section 2 of the bill provides for an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹³ The bill defines “redemption value” as the imputed value of coupons or points, based on the wholesale cost of merchandise for which those coupons or points may be redeemed. See s. 849.161(1)(e), F.S.

¹⁴ The current web address for the Department of Revenue’s publication relating to sales and use tax on amusement machines is <http://dor.myflorida.com/dor/forms/current/gt800020.pdf> (accessed March 8, 2014).

B. Private Sector Impact:

This bill does not have a significant private sector impact.

C. Government Sector Impact:

This bill does not have a significant government sector impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 849.161 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



457456

584-02148B-14

Proposed Committee Substitute by the Committee on Gaming
A bill to be entitled

An act relating to amusement machines; amending s. 849.161, F.S.; redefining terms; revising applicability; clarifying provisions and making technical changes; authorizing direct receipt of merchandise under certain circumstances; specifying a cap on the redemption value of points or coupons; requiring the Department of Revenue to calculate annually an adjusted cap; requiring the department to publish the amount of the adjusted cap in a brochure accessible from its website; providing an effective date.

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

Section 1. Section 849.161, Florida Statutes, is amended to read:

849.161 Amusement games or machines; when chapter inapplicable.—

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

(a) "Amusement games or machines" means games which are operated only for bona fide entertainment of the general public, which are activated by means of the insertion of currency or a coin, card, coupon, slug, token, or similar device, and which, by application of skill, may entitle the person playing or operating the game or machine controls the outcome of the game to receive points or coupons, the cost value of which does not exceed 75 cents on any game played, which may

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~~be exchanged for merchandise~~. The term does not include:

1. Casino-style games in which the outcome of the game is determined by factors unpredictable by the player; or
2. Games in which the player does may not control the outcome of the game through skill;
3. Video poker games or any other game or machine that may be construed as a gambling device under the laws of this state; or
4. Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178.

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

(c) "Game played" means the event occurring from the initial activation of the amusement game or machine by the insertion of currency or a coin, card, coupon, slug, token, or similar device, until the results of play are determined without the insertion of additional currency or an additional coin, card, coupon, slug, token, or similar device, to continue play payment of additional consideration. Free replays do not count as separate games played constitute additional consideration.

(d) "Merchandise" means noncash prizes, including toys and novelties. The term does not include:

1. Cash equivalents or any equivalent thereof, including gift cards or certificates; or
2. Alcoholic beverages;
3. Cards, coupons, points, slugs, tokens, or similar devices that can be used to activate an amusement game or

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58 machine; or

59 4. Points or coupons that have redemption value greater
60 than the cap calculated pursuant to subsection (8).

61 (e) "Redemption value" means the imputed value of coupons
62 or points, based on the wholesale cost of onsite merchandise for
63 which those coupons or points may be redeemed.

64 (f) (e) "Truck stop" means a any dealer registered pursuant
65 to chapter 212, excluding marinas, which:

66 1. Declared its primary fuel business to be the sale of
67 diesel fuel; and

68 2. Operates a minimum of six functional diesel fuel pumps;
69 and

70 3. Has coin-operated amusement games or machines on
71 premises which are operated for the entertainment of the general
72 public and tourists as bona fide amusement games or machines.

73 (2) Nothing contained in This chapter does not shall be
74 taken or construed to prohibit an arcade amusement center or
75 truck stop from operating amusement games or machines operated
76 in conformance with this section.

77 (3) This section applies only to amusement games or and
78 machines which are operated for the entertainment of the general
79 public and tourists as bona fide amusement games or machines.

80 (4) This section does shall not be construed to authorize:

81 (a) Casino-style games in which the outcome of the game is
82 determined by factors unpredictable by the player;

83 (b) Games in which the player does not control the outcome
84 of the game through skill;

85 (c) Video poker games or any other game or machine that may
86 be construed as a gambling device under the laws of this state;



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87 or

88 (d) Any game or device defined as a gambling device in 15
89 U.S.C. s. 1171, which requires identification of each device by
90 permanently affixing seriatim numbering and name, trade name,
91 and date of manufacture under s. 1173, and registration with the
92 United States Attorney General, unless excluded from
93 applicability of the chapter under s. 1178, or video poker games
94 or any other game or machine that may be construed as a gambling
95 device under Florida law.

96 (5) An amusement game or machine may entitle or enable a
97 person, by application of skill, This section does not apply to
98 a coin-operated game or device designed and manufactured only
99 for bona fide amusement purposes which game or device may by
100 application of skill entitle the player to replay the game or
101 device without the insertion of at no additional currency or an
102 additional coin, card, coupon, slug, token, or similar device,
103 if cost, if the game or device:

104 (a) The amusement game or machine can accumulate and react
105 to no more than 15 free replays;

106 (b) The amusement game or machine can be discharged of
107 accumulated free replays only by reactivating the game or device
108 for one additional play for such accumulated free replay; and

109 (c) The amusement game or machine cannot ~~can~~ make a no
110 permanent record, directly or indirectly, of free replays; and
111 is not classified by the United States as a gambling device in
112 15 U.S.C. s. 1171, which requires identification of each device
113 by permanently affixing seriatim numbering and name, trade name,
114 and date of manufacture under s. 1173, and registration with the
115 United States Attorney General, unless excluded from



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116 applicability of the chapter under s. 1178. This subsection
117 shall not be construed to authorize video poker games, or any
118 other game or machine that may be construed as a gambling device
119 under Florida law.

120 (6) An amusement game or machine may entitle or enable a
121 person, by application of skill, to receive points or coupons
122 that can be redeemed onsite for merchandise, if:

123 (a) The amusement game or machine is located at an arcade
124 amusement center, truck stop, bowling center defined in s.
125 849.141, or public lodging establishment or public food service
126 facility licensed pursuant to chapter 509;

127 (b) Points or coupons have no value other than for
128 redemption onsite for merchandise;

129 (c) The redemption value of points or coupons a person
130 receives for a single game played does not exceed the cap
131 calculated pursuant to subsection (8); and

132 (d) The redemption value of points or coupons a person
133 receives for playing multiple games simultaneously or competing
134 against others in a multi-player game, does not exceed the cap
135 calculated pursuant to subsection (8).

136 (7) An amusement game or machine may entitle or enable a
137 person, by application of skill, to receive merchandise
138 directly, if:

139 (a) The amusement game or machine is located at an arcade
140 amusement center, truck stop, bowling center defined in s.
141 849.141, public lodging establishment or public food service
142 facility licensed pursuant to chapter 509, or on the premises of
143 a retailer as defined in s. 212.02; and

144 (b) The wholesale cost of the merchandise does not exceed



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145 10 times the cap calculated pursuant to subsection (8).

146 (8) The cap on the redemption value of points or coupons is
147 \$5.25. Beginning July 1, 2015, and annually thereafter, the
148 Department of Revenue shall adjust the cap by multiplying the
149 prior cap by 1 plus the percentage change in the Consumer Price
150 Index for All Urban Consumers, U.S. City Average, or a successor
151 index as calculated by the United States Department of Labor,
152 for the most recent 12-month period ending March 31, and
153 rounding the product to the nearest cent. The Department of
154 Revenue shall publish the cap, as adjusted, in a brochure
155 accessible from its website relating to sales and use tax on
156 amusement machines.

157 Section 2. This act shall take effect July 1, 2014.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Gaming

BILL: SB 668

INTRODUCER: Senator Stargel

SUBJECT: Amusement Machines

DATE: March 7, 2014

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|------------|----------------|-----------|--------------------|
| 1. Kraemer | Guthrie | GM | Pre-meeting |
| 2. | | CM | |
| 3. | | RC | |

I. Summary:

SB 668 amends section 849.161, Florida Statutes, which authorizes, with restrictions, amusement games or machines at specified locations. The bill:

- Provides that, in addition to activation by insertion of a coin, an amusement machine may be activated by currency, card, coupon, token, or similar device.
- Increases the maximum redemption value of points or coupons a player may receive for a single game played from 75 cents to \$5.25 and increases the maximum wholesale value of merchandise dispensed directly (e.g., “claw” machine) to \$50. The caps will be adjusted annually, based on changes in the consumer price index.
- Eliminates the current law restriction that amusement machines may be placed only in arcades or truck stops.
- Repeals a current law provision that allows any person to petition for an injunction against illegal slot machines or devices.

II. Present Situation:

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines,⁴

¹ Section 849.08, F.S.

² Section 849.01, F.S.

³ Section 849.09, F.S.

⁴ Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.

but authorizes, with conditions, penny-ante games,⁵ bingo,⁶ charitable drawings,⁷ game promotions (sweepstakes),⁸ bowling tournaments,⁹ and amusement games and machines.¹⁰

Section 849.161, F.S., provides that gambling laws do not prohibit amusement games or machines that:

- Operate by insertion of a coin;
- May entitle a player, by application of skill, to receive points or coupons—the cost value of which does not exceed 75 cents on any game played—that may be exchanged onsite for merchandise; and
- Are located at an arcade amusement center with at least 50 coin-operated amusement games or machines or at a truck stop;

Current law specifically distinguishes and excludes the following from the exemption for amusement games or machines:

- Casino-style games in which the outcome is determined by factors unpredictable by the player (s. 849.161(1)(a), F.S.);
- Games in which the player does not control the outcome through skill (s. 849.161(1)(a), F.S.);
- Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178 (s. 849.161(4), F.S.);¹¹ or
- Video poker games or any other game or machine that may be construed as a gambling device under Florida law (s. 849.161(4), F.S.).

Section 849.21, F.S., provides that any person may petition in circuit court for a writ of injunction against a nuisance created through the use, manufacture, ownership, storage, possession, sale, lease, transport or operation of a “slot machines or device” outside of eligible facilities.¹² Current law also provides that no bond is required when petitioning for a temporary injunction and that the judge may issue a restraining order to prevent removal or interference with the offending equipment. After the 2013 Regular Session, third parties cited s. 849.21, F.S.,

⁵ Section 849.085, F.S.

⁶ Section 849.0931, F.S.

⁷ Section 849.0935, F.S.

⁸ Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

⁹ Section 849.141, F.S.

¹⁰ Section 849.161, F.S.

¹¹ Slot machines are included as gambling devices pursuant to 15 U.S.C. s. 1171, but pari-mutuel betting machinery for use at a racetrack, a coin-operated bowling alley, a shuffleboard, marble machine or pinball machine, or mechanical gun, if they are not designed and manufactured primarily for gambling, and which when operated do not deliver any money or property, or entitle a person to receive any money or property, and any so-called claw, crane, or digger machine and similar devices which are not operated by coin, are actuated by a crank, and are designed and manufactured primarily for use at carnivals or county or state fairs, are excluded pursuant to 15 U.S.C. s. 1178.

¹² See ss. 849.15 to 849.23, F.S.; however, such activities respecting slot machines located in or destined for certain eligible pari-mutuel facilities defined in ss. 551.102, F.S., or the facilities of manufacturers or distributors as provided in s. 551.109(2)(a), F.S., are not prohibited nuisances, and are regulated under ch. 551, F.S.

in petitions for injunctions against amusement arcades, including Chuck E. Cheese's, Dave & Buster's, and Festival Fun Parks (Boomers!).¹³ The three cases are pending.

III. Effect of Proposed Changes:

Section 1 of the bill amends the definition "amusement machine" as defined in s. 849.161, F.S. The bill expands the method of activation of amusement machines from coin operation only, to also allow the insertion of currency, slugs, tokens, coupons, cards, or similar devices as authorized methods to activate authorized amusement machines. The bill:

- Clarifies that a person playing or operating an amusement machine may directly receive merchandise, or points or coupons that may be exchanged on site for merchandise.
- Amends the limit on the value of points or coupons that may be exchanged on site for merchandise, from 75 cents per game played to \$5.25 or 15 times the amount charged for a game, whichever is less. The bill states that the player may accumulate and carry this value across multiple machines and games played. The bill provides that prize payable for the play of multiple games is \$5.25, the same as the maximum for a single game. The bill further provides that when multiple players compete or play simultaneously, the maximum value payable to a player is \$5.25; the value may not be multiplied by the number of participating players.
- Provides that the wholesale value of merchandise dispensed directly from an amusement machine may not exceed \$50.
- Eliminates the requirement that amusement machines be located at arcade amusement centers with a minimum of 50 machines on premises) or at truck stops.
- Provides that beginning on September 30, 2015, the Department of Revenue annually calculate an adjustment to the per-game cost of merchandise (initially set at \$5.25) by the rate of inflation for the 12-month period before September 1 of that year. The department is directed to use the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for the South Region, or a successor index from the U.S. Department of Labor. By October 15 of each year, the department must publish the adjusted amount and its January 1 effective date on its Internet home page.

Section 2 of the bill repeals s 849.21, F.S., regarding third-party civil actions against illegal slot machines or devices.

Section 3 of the bill provides that it is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹³ *Nebb v. CEC Entertainment, Inc., d/b/a Chuck E. Cheese*, Case No. CACE-13-024356 (03), Broward County Circuit Court; *DeVarona v. Dave & Buster's*, Case No. CACE-13-016547 (09), Broward County Circuit Court; *Forst v Festival Fun Parks, LLC, d/b/a Boomers*, Case No, 2013 CA 010200 AB, Palm Beach County Circuit Court.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill does not have a significant private sector impact.

C. Government Sector Impact:

This bill does not have a significant government sector impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 849.161 of the Florida Statutes.

This bill repeals section 849.21 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Stargel

15-00370A-14

2014668

A bill to be entitled

An act relating to amusement machines; amending s. 849.161, F.S.; redefining terms; revising applicability; prohibiting merchandise from exceeding a specified value; requiring the Department of Revenue to calculate annually an adjusted cap on the per-game cost of merchandise; requiring the department to publish the amount and effective date of the adjusted cap by a specified date; repealing s. 849.21, F.S., relating to an injunction to restrain violation; providing an effective date.

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

Section 1. Section 849.161, Florida Statutes, is amended to read:

849.161 Amusement ~~games or~~ machines; when chapter inapplicable.—

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

(a) "Amusement ~~machine games or~~ machines" means a machine activated by ~~games which operate by means of the insertion of a coin, currency, slug, token, coupon, card, or similar device that enables a person to play a game in~~ and which the player, by application of skill, may directly entitle the person playing or operating the game or machine to receive merchandise or points or coupons ~~that may be exchanged on site for merchandise, the cost value of which does not exceed 75 cents on any game played, which may be exchanged for merchandise.~~ The term does not include casino-style games in which the outcome is determined by

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CODING: Words stricken are deletions; words underlined are additions.

15-00370A-14

2014668

factors unpredictable by the player or ~~games~~ in which the player does ~~may~~ not control the outcome of the game through skill.

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

(b) "Game played" means the event occurring from the initial activation of the machine until the results of play are determined without payment of additional consideration. Free replays do not constitute additional consideration.

(c) "Merchandise" means noncash prizes, including toys and novelties. The term does not include cash or any equivalent thereof, including gift cards or certificates, or alcoholic beverages.

(e) "Truck stop" means any dealer registered pursuant to chapter 212, excluding marinas, which:

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

2. Operates a minimum of six functional diesel fuel pumps; and

3. Has coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists as bona fide amusement games or machines.

(2) Nothing contained in this chapter does not shall be taken or construed to prohibit an arcade amusement center or truck stop from operating amusement games or machines in conformance with this section.

(3) This section applies only to ~~games~~ and machines that which are operated for the entertainment of the general public

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59 and tourists as bona fide amusement games or machines.

60 (4) This section does shall not be construed to authorize:

61 (a) A any game or device defined as a gambling device in 15
 U.S.C. s. 1171, which requires identification of each device by
 63 permanently affixing seriatim numbering and name, trade name,
 64 and date of manufacture under s. 1173, and registration with the
 65 United States Attorney General, unless such game or device is
 66 excluded from applicability of the chapter under s. 1178;r or

67 (b) A device offering video poker games or any other
casino-style games game or machine that may be construed as a
gambling device under Florida law.

68 (5) This chapter section does not prohibit a apply to a
 69 coin operated game or device designed and manufactured only for
 bona fide amusement purposes which game or device may, by
 application of skill, entitle the player to replay the game or
 device at no additional cost, if the game or device:

70 (a) Can accumulate and react to no more than 15 free
 71 replays;

72 (b) Can be discharged of accumulated free replays only by
 73 reactivating the game or device for one additional play for such
 accumulated free replay;

74 (c) Can make no permanent record, directly or indirectly,
 75 of free replays; and

76 (d) Is not classified by the United States as a gambling
 77 device in 15 U.S.C. s. 1171, which requires identification of
 78 each device by permanently affixing seriatim numbering and name,
 79 trade name, and date of manufacture under s. 1173, and
 80 registration with the United States Attorney General, unless
 81 excluded from applicability of the chapter under s. 1178. This

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88 subsection shall not be construed to authorize video poker
 89 games, or any other game or machine that may be construed as a
 90 gambling device under Florida law.

91 (6) (a) If an amusement machine provides the player with
 92 points or coupons that may be exchanged on site for merchandise,
 93 the wholesale cost of the merchandise may not exceed \$5.25 or 15
 94 times the amount charged for a game played, whichever is less,
 95 and this value may be accumulated and carried forward across
 96 multiple machines and games played. For an amusement machine
 97 that directly provides the player with merchandise, the
 98 wholesale cost of the merchandise may not exceed \$50.

99 (b) If an amusement machine allows a player to activate the
 100 machine and play multiple games at the same time, those multiple
 101 games shall be considered a single game played for the purposes
 102 of the cap established under paragraph (a). If an amusement
 103 machine allows multiple players to compete against each other or
 104 play simultaneously in a game, the cap established in paragraph
 105 (a) may not be multiplied by the number of players but shall be
 106 applied to each player as if that player had played separately
 107 in an individual game.

108 (c) Beginning September 30, 2015, and annually on September
 109 30 thereafter, the Department of Revenue shall calculate an
 110 adjusted cap on the per-game cost of merchandise described in
 111 paragraph (a), increasing the cap by the rate of inflation for
 112 the 12 months before September 1. In calculating the adjusted
 113 cap, the department shall use the Consumer Price Index for Urban
 114 Wage Earners and Clerical Workers, not seasonally adjusted, for
 115 the South Region or a successor index as calculated by the
 116 United States Department of Labor. Each adjusted cap shall take

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117 effect on the following January 1, with the initial adjusted cap
118 to take effect on January 1, 2016. The department shall publish
119 the amount of the adjusted cap and its effective date on its
120 Internet home page by October 15 of each year.

121 Section 2. Section 849.21, Florida Statutes, is repealed.

122 Section 3. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR KELLI STARGEL

15th District

COMMITTEES:

Regulated Industries, *Chair*
Appropriations Subcommittee on General
Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Commerce and Tourism
Community Affairs
Education

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

February 3, 2014

The Honorable Garrett Richter
Senate Gaming Committee, Chair
103 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chairman Richter:

I am respectfully requesting that SB 668, related to *Amusement Machines*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
Senator, District 15

Cc: John Guthrie/ Staff Director
Lynn Koon/ AA

REPLY TO:

- 902 S. Florida Avenue, Suite 102, Lakeland, Florida 33803
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: EL 110

Caption: Senate Gaming Committee

Case:

Judge:

Type:

Started: 3/10/2014 2:35:51 PM

Ends: 3/10/2014 3:22:25 PM

Length: 00:46:35

2:35:53 PM Meeting called to order
2:36:05 PM Roll call
2:36:30 PM Opening comments from the Chair, Senator Richter
2:39:45 PM SB 668 - Senator Stargel
2:40:19 PM PCS #457456
2:40:42 PM Senate Stargel presenting the bill
2:44:12 PM Motion by Senator Montford
2:44:25 PM Sen. Benacquisto questioning
2:45:02 PM Senator Lee Questioning
2:47:33 PM Senator Stargel responding
2:48:30 PM Senator Sachs questioning
2:51:07 PM Senator Stargel responding
2:52:37 PM Senator Richter commenting
2:53:03 PM Senator Latvala commenting and questioning
2:54:12 PM Senator Stargel responding
2:55:33 PM Senator Dean questioning
2:57:34 PM Senator Galvano questioning
2:58:27 PM Senator Margolis questioning
2:58:58 PM Senator Stargel responding
3:00:58 PM Senator Richter replying
3:01:34 PM Senator Montford commenting and questioning
3:02:28 PM Senator Stargel responding
3:02:53 PM PCS 457456 adopted
3:03:23 PM Larry Seller, Dave and Busters
3:05:03 PM Brian Nesland, Family Fun Center
3:05:55 PM Marc Dunbar
3:06:36 PM Mark Grisson, Fun Spot Attractions
3:09:16 PM Mike Barned, Zoomers
3:09:27 PM Michael Blare, Palace Entertainment
3:10:43 PM Marc Dunbar
3:19:59 PM Senator Richter commenting
3:20:18 PM Senator Stargel to close on the bill
3:21:36 PM CS/SB 668 - Passed
3:22:11 PM Meeting adjourned