

**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.)

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Prepared By: The Professional Staff of the Committee on Gaming

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BILL: SB 668

INTRODUCER: Senator Stargel

SUBJECT: Amusement Machines

DATE: March 7, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Guthrie</u>	<u>GM</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**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.<sup>1</sup> Chapter 849, F.S., prohibits keeping a gambling house,<sup>2</sup> running a lottery,<sup>3</sup> or the manufacture, sale, lease, play, or possession of slot machines,<sup>4</sup>

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<sup>1</sup> Section 849.08, F.S.

<sup>2</sup> Section 849.01, F.S.

<sup>3</sup> Section 849.09, F.S.

<sup>4</sup> 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,<sup>5</sup> bingo,<sup>6</sup> charitable drawings,<sup>7</sup> game promotions (sweepstakes),<sup>8</sup> bowling tournaments,<sup>9</sup> and amusement games and machines.<sup>10</sup>

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.);<sup>11</sup> 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.<sup>12</sup> 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.,

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<sup>5</sup> Section 849.085, F.S.

<sup>6</sup> Section 849.0931, F.S.

<sup>7</sup> Section 849.0935, F.S.

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

<sup>9</sup> Section 849.141, F.S.

<sup>10</sup> Section 849.161, F.S.

<sup>11</sup> 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.

<sup>12</sup> 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!).<sup>13</sup> 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.

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<sup>13</sup> *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.