

By Senator Thurston

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1 A bill to be entitled
2 An act relating to preview games and machines;
3 creating s. 546.15, F.S.; defining terms; specifying
4 the Department of Business and Professional Regulation
5 is responsible for the licensure and regulation of
6 preview games or machines; requiring applicants for
7 licensure as a lessor, manufacturer, or operator to
8 meet certain requirements; prohibiting operators from
9 operating a preview game or machine not leased from a
10 licensed lessor; specifying the maximum number of
11 preview games or machines that may be in use at an
12 operator's location; requiring a licensed lessor to
13 submit an annual report containing specific
14 information to the department; requiring a licensed
15 lessor to report any changes on a quarterly basis;
16 requiring that specified fees be assessed against
17 manufacturers, lessors, and operators; requiring a
18 licensed manufacturer to provide a signed affidavit
19 affirming certain information; providing that certain
20 manufacturers, lessors, and operators who do not have
21 a license are subject to administrative penalties;
22 requiring the department to adopt rules; specifying
23 who has standing to bring a cause of action related to
24 preview games or machines; providing criminal
25 penalties; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Section 546.15, Florida Statutes, is created to

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30 read:

31 546.15 Preview games or machines.-

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

33 (a) "Department" means the Department of Business and
34 Professional Regulation.

35 (b) "Lessor" means a person who leases a preview game or
36 machine to an operator.

37 (c) "Manufacturer" means a person who creates preview game
38 or machine equipment and software.

39 (d) "Operator" means a person registered to operate a
40 preview game or machine.

41 (e) "Person" has the same meaning as in s. 605.0102.

42 (f) "Preview game or machine" means a game or machine that
43 is operated with no material element of chance inherent in the
44 game or machine, as defined in s. 546.10; does not require an
45 application of skill; and has a predetermined outcome that a
46 person does not control but which can be reviewed before the
47 game being played.

48 (2) The department is responsible for the regulation of
49 preview games or machines; the licensure for lessors,
50 manufacturers, and operators of preview games or machines; and
51 the occupational licensure of persons involved in manufacturing,
52 leasing, and operating preview games and machines.

53 (3) An applicant for licensure as a lessor must meet all of
54 the following requirements:

55 (a) Be registered in this state for the past 5 years to
56 conduct business as a lessor of amusement games and machines as
57 defined in s. 546.10.

58 (b) Hold a Florida sales tax certificate and be current on

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59 any sales tax payments.

60 (c) Have no felony convictions within the past 15 years.

61 (d) Submit fingerprints for any individual who owns more
62 than 5 percent of the business.

63 (4) An applicant for licensure as a manufacturer must meet
64 all of the following requirements:

65 (a) Hold a Florida sales tax certificate and be current on
66 any sales tax payments.

67 (b) Have no felony convictions within the past 15 years.

68 (c) Submit fingerprints for any individual who owns more
69 than 5 percent of the business.

70 (5) An applicant for licensure as an operator must meet all
71 of the following requirements:

72 (a) Hold a Florida sales tax certificate and be current on
73 any sales tax payments.

74 (b) Have no felony convictions within the past 15 years.

75 (c) Submit fingerprints for any individual who owns more
76 than 5 percent of the business.

77 (d) Have an alcoholic beverage license that allows for
78 consumption on the premises either:

79 1. Under s. 561.20, s. 563.02, or s. 564.02;

80 2. As a truck stop as defined in s. 546.10(3)(h); or

81 3. As a caterer at a horse or dog racetrack or jai alai
82 fronton under s. 565.02(5).

83 (6) An operator may only operate a preview game or machine
84 that is leased from a licensed lessor.

85 (7) The maximum number of preview games or machines that an
86 operator may have in use is:

87 (a) Ten games at an organization that is exempt from

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88 federal income taxation pursuant to 26 U.S.C s. 501(c) (3), (4),
89 (7), (8), (10), or (19);

90 (b) Five games at a location that has an alcoholic beverage
91 license that allows consumption on the premises under s. 561.20;

92 (c) Five games at a truck stop, as defined in s.
93 546.10(3) (h); and

94 (d) Three games at a location that has an alcoholic
95 beverage license that allows consumption on the premises under
96 s. 563.02 or s. 564.02.

97 (8) A licensed lessor of a preview game or machine shall
98 submit an annual report to the department listing the number of
99 games or machines in operation at each operator location. The
100 licensed lessor shall report any changes on a quarterly basis.

101 (9) Annual licensing and regulatory fees shall be assessed
102 against the manufacturer, the lessor, the operator, and each
103 individual preview game or machine in operation. The annual
104 regulatory fee shall be paid to the department. The annual
105 license fee is:

106 (a) Ten thousand dollars for a manufacturer.

107 (b) Five thousand dollars for a lessor.

108 (c)1. Five hundred dollars for each location of an operator
109 which contains a preview game or machine; and

110 2. One hundred twenty-five dollars for each individual
111 preview game or machine in use at such location.

112 (10) A licensed manufacturer of a preview game or machine
113 shall provide a signed affidavit affirming that the game or
114 machine meets all the requirements of state law and that the
115 game or machine is protected from manipulation or tampering that
116 could affect the random probabilities of winning plays.

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117 (11) A manufacturer, lessor, or operator that manufactures,
118 leases, or operates a preview game or machine without a proper
119 license is subject to administrative penalties set by the
120 department, including, but not limited to, the assessment of a
121 fine or the revocation of their license.

122 (12) The department shall adopt all rules, pursuant to the
123 provisions of ss. 120.536(1) and 120.54, necessary to implement,
124 administer, and regulate preview games or machines as authorized
125 in this section.

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

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

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

142 (14) In addition to other civil, administrative, and
143 criminal sanctions, a person who violates this section commits a
144 misdemeanor of the second degree, punishable as provided in s.
145 775.082 or s. 775.083. A person convicted of violating this

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146 section a second time commits a misdemeanor of the first degree,
147 punishable as provided in s. 775.082 or s. 775.083. A person who
148 violates this section after having been twice convicted is
149 deemed a common offender and commits a felony of the third
150 degree, punishable as provided in s. 775.082, s. 775.083, or s.
151 775.084.

152 Section 2. This act shall take effect October 1, 2018.