

By the Committee on Regulated Industries; and Senators Stargel and Latvala

580-02528A-15

2015268c1

1 A bill to be entitled  
2 An act relating to amusement games or machines;  
3 creating s. 546.10, F.S.; providing legislative  
4 findings; defining terms and phrases; authorizing an  
5 amusement game or machine to be operated with  
6 specified requirements; providing requirements for  
7 classifying such a device as a Type 1 or a Type 2  
8 amusement game or machine; providing that amusement  
9 games or machines may only be located at specified  
10 locations; specifying the maximum value on the  
11 redemption value of a coupon or a point; requiring the  
12 Department of Revenue to annually adjust the maximum  
13 value; providing a formula for the adjustment of the  
14 maximum value; requiring the department to publish the  
15 amount of the adjusted maximum value; authorizing  
16 certain persons or entities to enjoin the operation of  
17 an amusement game or machine; providing penalties;  
18 amending s. 551.102, F.S.; conforming a cross-  
19 reference; repealing s. 849.161, F.S., relating to  
20 amusement games or machines; providing an effective  
21 date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Section 546.10, Florida Statutes, is created to  
26 read:

27 546.10 Amusement games or machines.—

28 (1) The Legislature finds that regulation of the operation  
29 of skill-based amusement games or machines at specified

580-02528A-15

2015268c1

30 locations to ensure compliance with the requirements of law is  
31 appropriate to prevent expansion of casino-style gambling.

32 (2) Therefore, the Legislature finds that there is a  
33 compelling state interest in clarifying the operation and use of  
34 amusement games or machines to ensure that provisions regulating  
35 these devices are not subject to abuse or interpreted in any  
36 manner as creating an exception to the state's general  
37 prohibitions against gambling.

38 (3) As used in this section, the term:

39 (a) "Amusement game or machine" means a game or machine  
40 operated only for the bona fide entertainment of the general  
41 public which a person activates by inserting or using currency  
42 or a coin, card, coupon, slug, token, or similar device, and, by  
43 the application of skill, with no material element of chance  
44 inherent in the game or machine, the person playing or operating  
45 the game or machine controls the outcome of the game. The term  
46 does not include:

47 1. Any game or machine that uses mechanical slot reels,  
48 video depictions of slot machine reels or symbols, or video  
49 simulations or video representations of any other casino game,  
50 including, but not limited to, any banked or banking card game,  
51 poker, bingo, pull-tab, lotto, roulette, or craps.

52 2. A game in which the player does not control the outcome  
53 of the game through skill or a game where the outcome is  
54 determined by factors not visible, known, or predictable to the  
55 player.

56 3. A video poker game or any other game or machine that may  
57 be construed as a gambling device under the laws of this state.

58 4. Any game or device defined as a gambling device in 15

580-02528A-15

2015268c1

59 U.S.C. s. 1171, unless excluded under s. 1178.

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

64 (c) "Card" means a card other than a credit card or debit  
65 card which is used to activate an amusement game or machine;  
66 which contains a microprocessor chip, magnetic stripe, or other  
67 means for storing, retrieving, and transferring information,  
68 including information regarding coupons or points that are won  
69 and that may be redeemed for merchandise; which is prefunded;  
70 and for which the prefunded value is diminished upon each  
71 activation by the cost of play.

72 (d) "Game played" means the event beginning with the  
73 activation of the amusement game or machine and ending when the  
74 results of play are determined without the insertion or the use  
75 of any additional currency, coin, card, coupon, slug, token, or  
76 similar device to continue play. A free replay is not a separate  
77 game played.

78 (e) The phrase "material element of chance inherent in the  
79 game or machine" means any of the following:

80 1. The possibility of the player succeeding at the game or  
81 accomplishing the player's task is determined by the number or  
82 ratio of prior wins or prior losses of players playing the game.

83 2. An award of value is not based solely on the player  
84 achieving the object of the game or on the player's score.

85 3. The number of the coupons or points awarded or the value  
86 of the prize awarded for successfully playing the game can be  
87 controlled by a source other than the player or players playing

580-02528A-15

2015268c1

88 the game.

89 4. The ability of the player to succeed at the game is  
90 determined by a game feature or design that changes the effect  
91 of the player's actions and that is not discernible or known by  
92 the player.

93 5. The accomplishment of the player's task requires the  
94 exercise of a skill that no player could exercise.

95 6. A computer-based or mechanical random number generator  
96 or other factor that is not discernible, known, or predictable  
97 by the player determines the outcome or winner of the game.

98 7. The game is designed or adapted with a control device to  
99 allow manipulation of the game by the operator in order to  
100 prevent a player from winning or to predetermine which player  
101 will win.

102 (f) "Merchandise" means noncash prizes maintained on the  
103 premises by the operator of the amusement game or machine,  
104 including toys and novelties. The term does not include:

105 1. A cash equivalent, such as a gift card or certificate.

106 2. An alcoholic beverage.

107 3. A card, coupon, point, slug, token, or similar device  
108 that can be used to activate an amusement game or machine.

109 4. A coupon or a point that has a redemption value greater  
110 than the maximum value determined under subsection (8).

111 5. Any prize or other item, if the exchange or conversion  
112 to cash or a cash equivalent is facilitated or permitted by the  
113 owner or operator of the game or machine.

114 (g) "Redemption value" means the imputed value of a coupon  
115 or a point, based on the wholesale cost of merchandise for which  
116 the individual may redeem the coupon or point.

580-02528A-15

2015268c1

117 (h) "Truck stop" means a dealer registered pursuant to  
118 chapter 212, excluding a marina, which:

119 1. Declares the sale of diesel fuel to be its primary fuel  
120 business; and

121 2. Operates at least six functional diesel fuel pumps.

122 (4) Notwithstanding any other provision of law, an  
123 amusement game or machine may be operated as provided in this  
124 section.

125 (5) A Type 1 amusement game or machine is an amusement game  
126 or machine that may entitle or enable a person to:

127 (a) Replay the game or device without the insertion or the  
128 use of any additional currency, coin, card, coupon, slug, token,  
129 or similar device, if:

130 1. The amusement game or machine can accumulate and react  
131 to no more than 15 such replays;

132 2. The amusement game or machine can be discharged of  
133 accumulated replays only by reactivating the game or device for  
134 one additional play for each accumulated replay;

135 3. The amusement game or machine cannot make a permanent  
136 record, directly or indirectly, of any free replay;

137 4. The amusement game or machine does not entitle the  
138 player to receive any merchandise or a coupon or a point that  
139 may be redeemed for merchandise;

140 5. An unused free replay may not be exchanged for anything  
141 of value, including merchandise or a coupon or a point that may  
142 be redeemed for merchandise; and

143 6. The amusement game or machine does not contain any  
144 device that awards a credit and contains a circuit, meter, or  
145 switch capable of removing and recording the removal of a credit

580-02528A-15

2015268c1

146 if the award of a credit is dependent upon chance; or

147 (b) Receive a coupon or a point that may only be redeemed  
148 for merchandise, if:

149 1. The coupon or point has no value other than for  
150 redemption for merchandise;

151 2. The redemption value of the coupon or point a person  
152 receives for a single game played does not exceed the maximum  
153 value determined under subsection (8). However, a player may  
154 accumulate coupons or points to redeem for merchandise if there  
155 is no single item of merchandise which has a wholesale cost of  
156 more than 100 times the maximum value determined under  
157 subsection (8), or for a prize consisting of more than one item,  
158 unit, or part, if the aggregate wholesale cost of all items,  
159 units, or parts does not exceed 100 times the maximum value  
160 determined under subsection (8); and

161 3. The redemption value of coupons or points that a person  
162 receives for playing multiple games simultaneously or competing  
163 against others in a multiplayer game does not exceed the maximum  
164 value determined under subsection (8).

165 (6) A Type 2 amusement game or machine is an amusement game  
166 or machine that allows the player to manipulate a claw or  
167 similar device within an enclosure and entitles or enables a  
168 person to receive merchandise directly from the game or machine,  
169 if the wholesale cost of the merchandise does not exceed 10  
170 times the maximum value determined under subsection (8).

171 (7) (a) A Type 1 amusement game or machine may only be  
172 located at:

173 1. An arcade amusement center;

174 2. A bowling center, as defined in s. 849.141;

580-02528A-15

2015268c1

175 3. A public lodging establishment or public food service  
176 establishment licensed pursuant to chapter 509; or

177 4. A truck stop.

178 (b) A Type 2 amusement game or machine may only be located  
179 at:

180 1. An arcade amusement center;

181 2. A bowling center, as defined in s. 849.141;

182 3. The premises of a retailer, as defined in s. 212.02;

183 4. A public lodging establishment or public food service  
184 establishment licensed pursuant to chapter 509;

185 5. A truck stop; or

186 6. The premises of a veterans' service organization granted  
187 a federal charter under Title 36, United States Code, or a  
188 division, department, post, or chapter of such organization, for  
189 which an alcoholic beverage license has been issued.

190 (8) For purposes of this section, the "maximum value" is  
191 \$5.25. Beginning September 30, 2017, and annually thereafter,  
192 the Department of Revenue shall calculate the maximum value as  
193 adjusted by the rate of inflation for the 12 months before  
194 September 1, rounded to the nearest 5 cents. In calculating the  
195 adjusted maximum value, the department shall multiply the prior  
196 maximum value by one plus the percentage change in the Consumer  
197 Price Index for All Urban Consumers, U.S. City Average, All  
198 Items, not seasonally adjusted, or a successor index as  
199 calculated by the United States Department of Labor. Each  
200 adjusted maximum value shall take effect on the following  
201 January 1, with the initial adjusted maximum value to take  
202 effect on January 1, 2018. Beginning October 15, 2017, and  
203 annually thereafter, the department shall publish the maximum

580-02528A-15

2015268c1

204 value, as adjusted, in a brochure accessible from its website  
205 relating to sales and use tax on amusement machines. If the  
206 release of the August Consumer Price Index for All Urban  
207 Consumers occurs after September 15, in any given year, the  
208 department shall publish the adjusted maximum value within 30  
209 calendar days after the release date.

210 (9) Notwithstanding any other provision of law, an action  
211 to enjoin the operation of any game or machine pursuant to or  
212 for an alleged violation of this section or chapter 849 may be  
213 brought only by:

214 (a) The Attorney General, the state attorney for the  
215 circuit in which the game or machine is located, any federally  
216 recognized tribal government possessing sovereign powers and  
217 rights of self-governance which is a party to a compact with the  
218 state, or in the case of an alleged violation of statutes that  
219 it is charged with enforcing, the Department of Agriculture and  
220 Consumer Services or the Department of Business and Professional  
221 Regulation; or

222 (b) Any substantially affected person who is a resident of  
223 the county where the place of business operating the game or  
224 machine is located, or any substantially affected person who has  
225 a business or residence within 5 miles of the place of business  
226 operating the game or machine.

227 (10) In addition to other civil, administrative, and  
228 criminal sanctions, any person who violates this section shall,  
229 upon conviction, be guilty of a misdemeanor of the second  
230 degree, punishable as provided in s. 775.082 or s. 775.083. Any  
231 person convicted of violating this section a second time shall,  
232 upon conviction, be guilty of a misdemeanor of the first degree,

580-02528A-15

2015268c1

233 punishable as provided in s. 775.082 or s. 775.083. Any person  
234 who violates any provision of this section after having been  
235 twice convicted shall be deemed a common offender and shall be  
236 guilty of a felony of the third degree, punishable as provided  
237 in s. 775.082, s. 775.083, or s. 775.084.

238 Section 2. Subsection (8) of section 551.102, Florida  
239 Statutes, is amended to read:

240 551.102 Definitions.—As used in this chapter, the term:

241 (8) "Slot machine" means any mechanical or electrical  
242 contrivance, terminal that may or may not be capable of  
243 downloading slot games from a central server system, machine, or  
244 other device that, upon insertion of a coin, bill, ticket,  
245 token, or similar object or upon payment of any consideration  
246 whatsoever, including the use of any electronic payment system  
247 except a credit card or debit card, is available to play or  
248 operate, the play or operation of which, whether by reason of  
249 skill or application of the element of chance or both, may  
250 deliver or entitle the person or persons playing or operating  
251 the contrivance, terminal, machine, or other device to receive  
252 cash, billets, tickets, tokens, or electronic credits to be  
253 exchanged for cash or to receive merchandise or anything of  
254 value whatsoever, whether the payoff is made automatically from  
255 the machine or manually. The term includes associated equipment  
256 necessary to conduct the operation of the contrivance, terminal,  
257 machine, or other device. Slot machines may use spinning reels,  
258 video displays, or both. A slot machine is not a "coin-operated  
259 amusement machine" as defined in s. 212.02(24) or an amusement  
260 game or machine as described in s. 546.10 ~~s. 849.161~~, and slot  
261 machines are not subject to the tax imposed by s. 212.05(1)(h).

580-02528A-15

2015268c1

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Section 3. Section 849.161, Florida Statutes, is repealed.

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Section 4. This act shall take effect July 1, 2015.