

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 249

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TREADWAY.

Read 1st time January 3, 2001, and 1000 copies ordered printed.

Read 2nd time January 4, 2001, and referred to the Committee on Professional Registration and Licensing, January 29, 2001.

Reported from the Committee on Professional Registration and Licensing, February 26, 2001, with recommendation that the bill
Do Pass.

Taken up for Perfection March 12, 2001. Bill ordered Perfected and printed.

TED WEDEL, Chief Clerk

0845L.01P

AN ACT

To amend chapter 324, RSMo, by adding thereto five new sections relating to amusement machines.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto five new sections, to be
2 known as sections 324.1005, 324.1008, 324.1011, 324.1014, and 324.1017, to read as follows:

324.1005. 1. As used in sections 324.1005 to 324.1017, the following terms mean:

2 (1) "Amusement machine", any machine, device or apparatus which provides
3 amusement, diversion or entertainment, which is coin-operated and operational results of
4 which depend in whole or in part upon the skill of the player, regardless of whether an
5 award is afforded to a successful player. Such phrase includes any machine, device or
6 apparatus not otherwise excluded by this section and also includes, but is not limited to,
7 such games as radio rifles, miniature football, golf, baseball, hockey, basketball, bumper
8 pool, tennis, shooting galleries, pool tables, shuffleboard, pinball tables, cranes, video
9 games, claw machines, bowling machines, countertop machines, novelty arcade machines
10 and other miniature games, regardless of whether a score shows;

11 (2) "Amusement machine operator", a person engaged in the business of owning,
12 buying, selling, renting, leasing, trading, or furnishing amusement machines to another;
13 except that the phrase shall exclude an individual who owns and operates an amusement
14 machine for personal use and amusement in such individual's private residence. All

15 amusement machines owned and operated by a business or organization and located on the
16 premises of such business or organization as of August 28, 2001, and used for the
17 amusement of the customers or members of that business or organization, shall be exempt
18 from the requirements and rights of amusement machine operators set forth in sections
19 324.1005 to 324.1017. Any additional machines which such business or organization
20 acquires or begins to operate after August 28, 2001, shall be subject to the provisions of
21 sections 324.1005 to 324.1017 and the business or organization shall thereafter be required
22 to obtain a license pursuant to sections 324.1005 to 324.1017;

23 (3) "Award", a noncash prize, toy, item of merchandise or novelty which shall be
24 located and redeemed solely on the premise where an amusement machine is played. The
25 term shall exclude cash, gift certificates, intoxicating beer and liquor, nonintoxicating beer
26 and tobacco products. The value of an award for a single play shall not exceed the greater
27 of a single player of the amusement machine or the wholesale value of five dollars. The
28 value of an award from an accumulation of successful plays shall not exceed a wholesale
29 value of more than twenty-five dollars. No redemption machine shall act as a lottery or gift
30 enterprise, or simulate a slot machine or any gambling game of skill or video
31 representations which are specifically enumerated in subdivision (12) of subsection 1 of
32 section 313.800, RSMo, as of August 28, 1999;

33 (4) "Coin-operated machine", any amusement machine which is operated by
34 placing through a slot or any kind of opening or container any coin, slug, token, paper
35 money or other object or article necessary to be inserted before the machine operates or
36 functions. The term does not include any machine or device which is classified by the
37 United States government as requiring a federal gaming stamp pursuant to applicable
38 provisions of the Internal Revenue Code;

39 (5) "Director", the director of the division of professional registration of the
40 department of economic development;

41 (6) "Person", any individual, firm, association, company, partnership or
42 corporation;

43 (7) "Redemption machine", an amusement machine from which a successful player
44 receives a redeemable award. An immediate right of replay shall not be considered a
45 redeemable award.

46 2. No person shall act as an amusement machine operator without first obtaining
47 an amusement machine operator license from the director. Such license shall be renewed
48 biennially on or before July first of each year. The biennial fee for a license to operate
49 amusement machines shall be set by the director at an amount necessary to cover
50 administration costs of the licensing program established in sections 324.1005 to 324.1017,

51 but shall not exceed one thousand five hundred dollars. The biennial fee for a license to
52 operate any number of amusement machines only at carnivals, circuses, local or county
53 fairs or the state fair shall be one hundred dollars for each month of such two-year period
54 in which amusement machines are operated. Any person making an initial application for
55 a license after January first of the year shall be charged a prorated amount of such license.
56 A licensed amusement machine operator shall not transfer his or her license number or
57 allow another person to use his or her license number.

58 3. A person may obtain an amusement machine operator license if such person has
59 the following qualifications:

60 (1) Such person, if an individual, is at least twenty-one years of age, or such person,
61 if a business, is in part owned by at least one individual who is at least twenty-one years of
62 age;

63 (2) Such person, if an individual, is currently a resident of this state and has been
64 such continuously for at least one year before the date of such person's application or, if
65 such person is a business, is in part owned by at least one individual who is currently a
66 resident of this state, has been such continuously for at least one year before the business's
67 application and if such person shall be the party accountable for the collection and
68 reporting of all of the business's state taxes, fees and compliance. The residency
69 requirement shall not apply to a person whose operation of amusement machines is limited
70 exclusively to carnivals, circuses, local or county fairs or the state fair and shall not apply
71 to a person who was doing business in Missouri and paying Missouri sales tax on revenues
72 from amusement machines on or before December 31, 2000; and

73 (3) Such person shall show a Missouri sales tax number and proof that Missouri
74 sales tax has been paid on all business dealings previously undertaken in this state.

75 4. Any person who acts as an amusement machine operator without first obtaining
76 a license from the director may be assessed a penalty of up to one hundred dollars for each
77 amusement machine in such person's possession and the director may seize any amusement
78 machines in such person's possession and initiate or authorize the attorney general to
79 initiate legal proceedings.

324.1008. All licensed amusement machine operators shall identify each of their
2 amusement machines with a decal. Such decal shall be provided by the operator and shall
3 contain the license number of the operator and any other information the director may
4 require. Each amusement machine operator shall place such decal in a prominent location
5 on each machine owned or operated by him or her.

324.1011. 1. The director is authorized to:

2 (1) Promulgate rules necessary to implement sections 324.1005 to 324.1017;

3 (2) Issue warnings and probations and assess monetary penalties of up to one
4 hundred dollars per violation to an amusement machine operator who violates sections
5 324.1005 to 324.1017;

6 (3) Prescribe all forms, applications, and licenses;

7 (4) Examine books and records of persons applying for an amusement machine
8 operator license or of persons licensed as amusement machine operators, including state
9 sales tax records; and may only investigate an operator of amusement machines after
10 receiving a written complaint or request to take action from a Missouri citizen or law
11 enforcement agency.

12 2. Any party aggrieved by any action of the director shall have the right to appeal
13 to the administrative hearing commission from any finding, order or decision of the
14 director. Any person or entity who is a party to such a dispute shall be entitled to a
15 hearing before the administrative hearing commission by the filing of a petition with the
16 administrative hearing commission within thirty days after the decision of the director is
17 placed in the United States mail or within thirty days after the decision is delivered,
18 whichever is earlier. The decision of the director shall contain a notice of the right of
19 appeal in substantially the following language:

20 If you were adversely affected by this decision, you may appeal to the administrative
21 hearing commission. To appeal, you must file a petition with the administrative hearing
22 commission within thirty days after the date of this decision was mailed or the date it was
23 delivered, whichever date was earlier. If any such petition is sent by registered mail or
24 certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method
25 other than registered mail or certified mail, it will be deemed filed on the date it is received
26 by the commission. The procedures applicable to the processing of such hearings and
27 determinations shall be those established by chapter 536, RSMo. Decisions of the
28 administrative hearing commission pursuant to this section shall be binding subject to
29 appeal by either party.

30 3. No rule or portion of a rule promulgated pursuant to the authority of this section
31 shall become effective unless it is promulgated pursuant to the provisions of chapter 536,
32 RSMo.

 324.1014. All fees provided for in sections 324.1005 to 324.1017 shall be collected
2 by the director, who shall transmit the funds to the director of revenue to be deposited in
3 the state treasury to the credit of the "Amusement Machine Operator License Fund"
4 which is hereby created. The fund shall be administered by the director. Upon
5 appropriation, money in the fund shall be used solely for the administration of sections
6 324.1005 to 324.1017. Notwithstanding the provisions of section 33.080, RSMo, to the

7 contrary, no appropriation made to the fund shall lapse. The state treasurer shall invest
8 moneys in the fund in the same manner as other funds are invested. Interest and moneys
9 earned on such investments shall be credited to the fund.

2 **324.1017. Sections 324.1005 to 324.1017 shall not become effective until**
3 **expenditures are specifically appropriated or personnel are specifically authorized for the**
4 **purpose of performing the duties specified therein and the initial rules filed, if appropriate,**
5 **have become effective. The director shall have the authority to borrow funds from any**
6 **agency within the division to commence operations upon appropriation for such purpose.**
7 **This authority shall cease at such time that a sufficient fund has been established by the**
8 **agency to fund its operations and repay the amount borrowed.**