

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 249
91ST GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, May 10, 2001, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

0845S.04C

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 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:

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

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

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

26 (3) "Award", a noncash prize, toy, item of merchandise or novelty which shall
27 be located and redeemed solely on the premises where an amusement machine is
28 played. The term shall exclude cash, gift certificates, intoxicating beer and liquor,
29 nonintoxicating beer and tobacco products. The value of an award for a single play
30 shall not exceed the greater of a single play of the amusement machine or the
31 wholesale value of five dollars. The value of an award from an accumulation of
32 successful plays shall not exceed a wholesale value of more than two hundred fifty
33 dollars;

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

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

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

44 (7) "Redemption machine", an amusement machine from which a successful
45 player receives a redeemable award. An immediate right of replay shall not be
46 considered a redeemable award. No redemption machine shall act as a lottery or
47 gift enterprise, or simulate a slot machine or any gambling game of skill or video
48 representations which are specifically enumerated in subdivision (12) of subsection
49 1 of section 313.800, RSMo, as of August 28, 1999.

50 2. No person shall act as an amusement machine operator without first
51 obtaining an amusement machine operator license from the director. Such license
52 shall be renewed biennially on or before July first of each year. The biennial fee
53 for a license to operate amusement machines shall be set by the director at an
54 amount necessary to cover administration costs of the licensing program
55 established in sections 324.1005 to 324.1017, but shall not exceed one thousand five

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

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

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

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

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

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

324.1008. All licensed amusement machine operators shall identify each of
2 their amusement machines with a decal. Such decal shall be provided by the
3 operator and shall contain the license number of the operator and any other
4 information the director may require. Each amusement machine operator shall
5 place such decal in a prominent location on each machine owned or operated by
6 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, probations, suspensions and revocations to an**
4 **amusement machine operator who violates sections 324.1005 to 324.1017;**
5 **(3) Prescribe all forms, applications, and licenses;**
6 **(4) Examine only those books and records of persons applying for an**
7 **amusement machine operator license or of persons licensed as amusement machine**
8 **operators that directly pertain to amusement machine activities, including local**
9 **and state sales tax records; and may only investigate an operator of amusement**
10 **machines after receiving a written complaint or request to take action from a**
11 **Missouri citizen or law enforcement agency.**

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

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

31 **3. Any rule or portion of a rule, as that term is defined in section 536.010,**
32 **RSMo, that is created under the authority delegated in this section shall become**
33 **effective only if it complies with and is subject to all of the provisions of chapter**
34 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,**
35 **RSMo, are nonseverable and if any of the powers vested with the general assembly**
36 **pursuant to chapter 536, RSMo, to review, to delay the effective date or to**
37 **disapprove and annul a rule are subsequently held unconstitutional, then the grant**

38 of rulemaking authority and any rule proposed or adopted after August 28, 2001,
39 shall be invalid and void.

324.1014. All fees provided for in sections 324.1005 to 324.1017 shall be
2 collected by the director, who shall transmit the funds to the director of revenue
3 to be deposited in the state treasury to the credit of the "Amusement Machine
4 Operator License Fund" which is hereby created. The fund shall be administered
5 by the director. Upon appropriation, money in the fund shall be used solely for the
6 administration of sections 324.1005 to 324.1017. Notwithstanding the provisions of
7 section 33.080, RSMo, to the contrary, no appropriation made to the fund shall
8 lapse. The state treasurer shall invest moneys in the fund in the same manner as
9 other funds are invested. Interest and moneys earned on such investments shall
10 be credited to the fund.

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

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