

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 22, 2005 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Revisor of Statutes
Richard Cram, Department of Revenue
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Representative David Huff
Representative Candy Ruff
Calvin Brown, Growth Unlimited, Corporation
John Walker, Growth Unlimited, Corporation
Jeff Elder, Attorney, Wamego
Phil Bradley, KS License Beverage Association
Secretary Joan Wagnon
Glenn Thompson, Stand Up For Kansas
Ron Cazel, Billiards and Games (written testimony only)

Others attending:

See attached list.

Representative Siegfried stated the report of the sub-committee regarding classes of cities was a recommendation that the House Taxation Committee not act on **HB 2467** and **HB 2490** this year. They also recommended the Committee take action on **HB 2023**, which would put the cities back into a couple of categories and increase their taxing ability, locally. There would be a follow-up requirement of a constitutional resolution that would expand the classes of cities to 10. The Chairman stated that they would take up that consideration at a date to be determined this year.

HB 2524 - Licensure and regulation of certain amusement machines

Mr. Self stated this bill is a new piece of legislation that relates to regulation, licensure and certain taxes imposed on amusement machines. The responsibility of the act is delineated to the Director of Alcohol Beverage Control. There are license requirements with regard to procedures dealing with both owners and vendors of the machines as well as regulations and licensure regard to the location of such machines. The bill outlines violations of the act, followed by detailed penalties, fines and actions that may be taken by the Director.

The Chairman opened the public hearing on **HB 2524** and invited Representative Huff to the podium.

Representative David Huff, sponsor of the bill, provided the background of **HB 2524** (Attachment 1). There are all types of amusement machines coming into Johnson County that pay out in tokens, vouchers, points, or tickets, redeemable for cash. After discussions with Secretary Wagnon, **HB 2524** was drafted to regulate and tax these machines that award winning players. Whether they do or do not act on this legislation to regulate and tax these amusement machines, it will not stop the status quo, and they will continue to expand across Kansas to the benefit of some out of state vendors. The bill would immediately have a \$1 million plus fiscal impact for our state. He stated there are currently 200 outlets that have these amusement machines.

Representative Candy Ruff stood in support of **HB 2524**. She stated that deciding legalities between games of chance and games of skill is what the bill is all about (Attachment 2). The bill says amusement machines are *games of skills* and gambling devices are *games of chance*. It will dictate the parameters by which amusement machines will be judged as well as taxed. As a game of skill, these amusement machines may continue if they bear a Kansas Department of Revenue sticker. Owners of the establishments in which these

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amusement machines already exist will be taxed for the privilege of having them under their roofs.

Calvin Brown, Growth Unlimited, Corporation explained why Growth Unlimited Corp. supports **HB 2524**. He gave a brief history of amusement machine operation in Kansas that resulted in the development of a game of 100% skill named "Monkey Land". He distributed a chart on the projected annual state revenue for Kansas based on the number of machines, operators and locations in the state (Attachment 3). In response to a question on how many machines are currently in Kansas he estimated between 5,000 to 10,000.

John Walker, Growth Unlimited, Corporation distributed testimony that explained "How to play the Game" (Attachment 4). He reviewed the directions to play a game named "Speed Master" a game similar to "Tic-Tax-Toe".

Jeff Elder, Attorney, Wamego, appeared in support of **HB 2524** (Attachment 5). He suggested the proposed legislation deserves consideration for two important reasons:

- Businesses have no guidance from the State to assist them in determining whether a particular machine is a legal "amusement machine", or an illegal "gambling device", leaving businesses who distribute or operate the machines at the mercy of the opinion of law enforcement officials in each particular county. There is currently no regulation of these type machines and when the Attorney General has been asked to view other machines and give advance opinion on their legality, they have declined to do so.
- The regulation of legal "amusement machines" would generate significant revenue for the State. Based on experience in other states, they estimated that the monetary value to the State of Kansas, via annual distribution fees, operator licenses, and individual machine registration fees, to be over \$1 million annually.

Phil Bradley, KS License Beverage Association, testified in support of **HB 2524** (Attachment 6). He stated that this legislation is a well considered solution to the challenge of making sure that Kansas citizens are protected while at the same time assisting businesses in assuring that the recreation needs of the public are met in a safe manner. Additionally they support the suggested amendment by the KDOR to allow the entire Department to be responsible for the regulation, not just the ABC. In Section 4, the penalties are substantial and do not allow for enough judgement flexibility in cases of obvious vandalism or other uncontrollable circumstances. They requested the language be changed from *shall* to *may* on page 6, lines 29 and 39.

Secretary Joan Wagon expressed strong support for **HB 2524** (Attachment 7). The Department staff worked closely with Representative Huff and the Revisor in the development of this proposal. They recommend that the bill be amended to provide that the "Secretary of Revenue," instead of the "Director of Alcohol Beverage and Control," administer this program. Several areas of the Department (especially their licensing staff in the Division of Taxation) need to be involved to efficiently administer the program using existing resources, not Alcohol Beverage Control alone. She believed that these types of amusement machines are growing in popularity and offer the potential for a significant new revenue source for the state.

Written testimony from Ronnie Cazel, Billiards and Games, Inc. was submitted in favor of the bill (Attachment 8).

States that already have these type of machines are Ohio, Michigan, Georgia and Florida, with no taxes imposed on them. Texas, Nebraska and Iowa carry taxes.

Glenn Thompson, Stand Up For Kansas, stated that they oppose the expansion of gambling in Kansas (Attachment 9). He outline the following four reasons for their opposition:

- The machine that this bill proposes to regulate is simply a slot machine. It is a skill slot machine, not a lottery slot machine. Nevertheless, it is a slot machine.

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- The difference between an illegal lottery slot machine and a legal skill slot machine is subtle and imperceptible to most people.
- Taxing and regulating skill slot machines, as proposed by this bill, would sanction and encourage operation of the machines throughout the state.
- All slot machines are a public nuisance and should be prohibited.

In conclusion, he stated that the machines **HB 2524** would tax and regulate are simply slot machines, although technically legal. Passage of this bill would encourage the spread of such machines throughout the state. On numerous occasions, the legislature has taken the position that lottery slot machines would be a public nuisance and refused to pass bills permitting operation of such machines and he urged the committee to take a similar position on skill slot machines by amending this bill to prohibit these machines in Kansas.

In response to a question about gambling addiction, he stated that his research had shown no difference in the addictive nature of skilled or chance slot machines. Approximately 1 ½ percent of the people, within a 50 mile radius, that use these machines will become addicted and approximately 3 to 5 percent will become problem gamblers. The social costs would be similar to other kinds of gambling.

There being no other conferees the Chairman closed the hearing on **HB 2524**.

HB 2501 - Reauthorization of school district ad valorem tax levy and exemption therefrom.

Mr. Self explained a balloon amendment distributed by Chairman Wilk (Attachment 10). Commencing for the 2006-2007 school year and each year thereafter, the amount of money appropriated by the legislature for the Department of Education for general state aid shall not be less than the sum of: (1) The amount appropriated for the Department of Education for general state aid for the preceding school year; and (2) an amount equal to the growth in local effort from the property tax levied pursuant to the provisions of K.S.A. 72-6431, and amendments thereto, attributable to estimated increases in assessed valuation of taxable tangible property.

Chairman Wilk moved to amend **HB 2501** with the balloon. Representative Gordon seconded the motion. The motion carried.

Representative Gordon made a motion that the House Taxation Committee move **HB 2501**, as amended, favorable for passage. Representative Owens seconded the motion. The motion carried.

SB 128 - Creating the oil and gas valuation depletion trust fund and providing for distribution of moneys therefrom.

Mr. Courtwright explained a chart from yesterdays hearing that provided a 10 year trend from 1996 through 2006, that listed data in the following categories; statewide natural gas production in thousands of mcfs, statewide gas service taxes in thousands of \$, statewide oil production in thousands of barrels and statewide oil severance taxes in thousands of \$. It reflected percentage changes for each year.

Representative George made the motion that **SB 128** be passed out favorably. Representative Hill seconded the motion.

Representative Larkin made a substitute motion to table **SB 128**. Representative Menghini seconded the motion. The motion passed (15-5) and **SB 128** was tabled.

HB 2525 - Retailers' sales tax in Neosho county

Representative Larkin made a motion to amend **HB 2525** to include language that would make it clear that prospectively from here forward, the process for approval of sales tax increases would have to have legislative approval before it went to a vote of the people. In view of time constraints, further discussion and

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consideration would be continued at a future date.

The Chairman adjourned the meeting at 10:25 a.m. The next meeting will be announced on the floor or by email to each Representative's office.

HOUSE TAXATION COMMITTEE GUEST LIST

DATE: March 22, 2005

NAME	REPRESENTING
Jim Sullinger	KC STAR
Tom Groneman	KDOR - ABC
Phil Wilkes	KDOR
Lesty Lawson	KCNH
Dutch Dossier	De Soto Ks
David R. Lesbin	KDOR
Rebecca Lice	Ks Clubs & Associates
Phil Brody	Ks Licensed Beverage Assn
Amber Shaverdi	KMCA of Ks
Mike Padilla	KDOR - ABC
Dani Daney	Intern - Dillmore
Lisa Roth	Job Shadow - Lockin
LARRY R. BAER	LKM
Trent LeMay	Sen President
Ron Seaber	Her Law Firm
George Petersen	Ks Taxpayers Network
JEANNE GOODWIN	City of Wichita
Richard Cram	KDOR
RON R. WORNEY	SELF

HOUSE TAXATION COMMITTEE GUEST LIST

DATE: March 22, 2005

NAME	REPRESENTING
Kive Morrison	Inter Rep Link
Stenna Thompson	Stand Up For K.S.
JEFF EIDER	Growth Unlimited
Colin Brown	" "
John Walker	" "
Joan Wagner	KDOT

HB - 2524

Thank you chairman Wilk, ranking member Thull, and Vice chair in training - Owens.

Some background of HB - 2524 formulation:

Several months ago, I was having lunch at a sports bar, with a friend. As I was talking to the manager, one of the customers came to the manager and handed him a ticket. He said "I have a winner", and the manager paid him \$250.00 in cash. I told the manager, that didn't look legal to me, and he said that the company from S. Carolina, who installed the machines said it was legal. During the last several months, I have noticed all types of amusement machines coming into Johnson County. I contacted Secretary Wagnon's office and informed her of the situation. I told her that I would like to submit a bill to regulate and tax these machines that award winning players. Sec. Wagnon had our A.B.C. agents take a look around the state for these amusement devices in all types of outlets including bars, private clubs, and convenience stores - etc. We were both amazed that over 30% of the outlets checked, had some form of these amusement machines that paid out in tokens, vouchers, points, or tickets - redeemable for cash. We were both at a loss, trying to figure out what action should be taken, and where to go from here. We were into February of the session, and I received a letter from an attorney named Jeff Elder from Womego, Ks.(attached). Jeff, who will testify in

the next few minutes, had a client whose machines were confiscated in one area of our state, while in other areas of the state they were deemed O.K. We met again with sec. Wagnon and Jeff provided us with some Iowa statutes that Gordon has tailored for Kansas - into HB - 2524. Whether we do or we don't act on this legislation to regulate and tax this type of amusement machine, it will not stop the status quo. These machines will continue to expand across our state with some out of state vendors cashing in!

The next conferees will explain more in detail about their operations of amusement machines and the bill's proposals. This bill will immediately have a \$1,000,000 plus - fiscal note to our state. We can either tax and regulate these machines, or let them exist as they presently are. They are not going to go away, and their industry wants to be regulated. Mr. Chairman, since most of the conferees are from out of town, I would stand for questions at the appropriate time. I would also ask that the committee return the attached examples at the appropriate time since I have \$30.00 tied up in my presentation.

Thank you Mr. Chairman
Rep. David Huff

JEFF ELDER, P.A.

Attorney At Law
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.....
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SECRETARY OF REVENUE
FEB 01 2005
DEPARTMENT OF REVENUE

Mailing Address:
P.O. Box 294
Wamego, Ks 66547

January 28, 2005

Representative David Huff
300 S.W. 10th Avenue Room 174 W
Topeka, KS 66612-1504

In Re: Amusement Machine Legislation

Dear Representative Huff:

My name is Jeff Elder. I am a Kansas attorney, practicing out of the Manhattan-Wamego area. I currently represent Growth Unlimited, an Iowa based company that has been a nationwide distributor of amusement machines for the past 30 years. Calvin Brown, president of Growth Unlimited, has retained me to contact legislators to explore the possibility of working with Kansas lawmakers on the introduction of new legislation, similar to that of a number of other states, which would specifically define what would constitute legal "amusement machines", and which would provide for the regulation of the same.

I believe that this is legislation which the State of Kansas should take a serious look at for a number of reasons, the two most important of which are as follows:

First, businesses like my clients' have no guidance from the State to assist them in determining whether a particular machine is a legal "amusement machine", or an illegal "gambling device", as that term is defined by K.S.A. 21-4302(d), leaving businesses who distribute or operate the machines at the mercy of the opinion of law enforcement officials in each particular county. For example, my client has distributed machines to various businesses in some counties, with the legality of the same not being questions. On the other hand, the very same machines have been seized by law enforcement in other counties, as constituting illegal "gambling devices", subjecting the businesses in those counties to criminal sanctions.

There is currently no regulation of these type of machines. My client has cooperated with the Kansas Attorney General's Office by removing machines that the Attorney General has declared to be illegal "gambling devices", but when that office has been asked to view other machines and give an advance opinion on their legality, the Attorney General's Office has declined to do so. I can understand that, as it is not the job of the

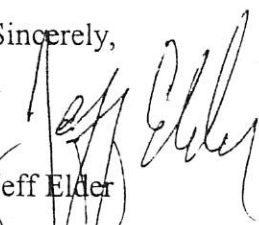
Attorney General to give advisory opinions on whether something is going to be in violation of Kansas law. However, I believe that the Attorney General's Office would welcome some sort of regulation of these type of machines so that all individuals involved, including local law enforcement, would know what the status of any particular machine was. I'm sure county prosecutors would also welcome some clarity on this issue as well.

Secondly, the regulation of legal "amusement machines" would generate significant revenues for the State. Based on my client's experience with these type of machines being operational in other states, it estimates that the monetary value to the State of Kansas, via annual distribution fees, operator licenses, and individual machine registration fees, to be over \$1,000,000.00 annually, just from machine play alone. Additionally, the use of promotions like gift certificates or "Chamber Bucks" that could be won from the machines operation would keep dollars circulating within the community, generating additional sales tax revenue as well as making a positive impact on the economy.

What the legislature would earmark the revenue from the regulation of these type of machines is something I'm not going to speculate on. However, given the Supreme Courts mandate to the legislature to "fix" our education system, it appears that this would be an excellent source of additional revenue for that purpose.

Mr. Brown and I would be honored to meet with you at your convenience to explore whether you would be interested in sponsoring this legislation, or to see if we could count on your support. Please feel free to contact me if you wish to discuss this further. You can email me at ["elder_pa@hotmail.com"](mailto:elder_pa@hotmail.com) if you would like.

Sincerely,


Jeff Elder

STATE OF KANSAS

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REPRESENTATIVE FORTIETH DISTRICT
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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER: COMMERCE & LABOR
MEMBER: FEDERAL AND STATE
AFFAIRS
WILDLIFE, PARKS &
TOURISM

To: House Taxation Committee

From: Rep. L. Candy Ruff

Re: HB 2425⁵⁴

Deciding the legalities between games of chance and games of skill is what HB 2425⁵⁴ is all about. Present already in communities throughout Kansas, amusement machines are giving Kansas law enforcement a moment's pause. What's legal and what's not? What characteristics found in amusement machines make them conform to Kansas statute?

That's why we are here today. Not only will HB 2425⁵⁴ dictate the parameters by which amusement machines will be judged, this legislation taxes them. You will hear from our Kansas Department of Revenue this morning about the challenges its agents encounter in the field. Additionally you will find out how other states handle amusement machines their states. Once this information is digested, please consider the bottom line.

By dictating the strictures under which these amusement machines may continue in Kansas, HB 2425⁵⁴ sets out how they will be taxed. As a game of skill, these amusement machines may continue their amusing presence if they bear a Kansas Department of Revenue sticker. Owners of the establishments in which these amusement machines already exist will be taxed for the privilege of having them under their roofs. With a fiscal note well in excess of a \$1 million the first year, revenues to the state will grow. This is a classic example of the state capturing revenue from amusement games already present in Kansas.

Granted, a gambling device as with beauty is in the eye of the beholder. For Kansas, HB 2425⁵⁴ says amusement machines are games of skills. Gambling devices are games of chance. For this slice of the entertainment industry the rules will be clearly dictated in that what entails amusement machines will be decisively explained, and those businesses interested in offering them to their patrons must follow strict guidelines.

And when all is said and done, the state general fund benefits. HB 2425⁵⁴ is all about taxing amusement machines in Kansas. They're here, they're played, and they're popular. So why shouldn't Kansas reap the benefit from those interested in offering them legally?

Back in the 1930s and 40s, my community of Leavenworth was known for the proliferation of shall we say gaming devices. To this day a few remnants of those dazzling devices can be found in the basements of a few old timers. One of those old guys told me all about them when I was writing a newspaper story on the occasion of his 100th birthday. He was naming the clubs where anyone could get a drink in our dry state and then play the machines. These were the Depression Days, he said. Times were hard and the government hadn't any revenues to care for its people or for its infrastructure.

Hs Taxation Committee
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Attachment 2

“If only those folks in Topeka had had the good sense to tax those machines, the money would have flowed in the state’s purse,” he said with a wink.

Some 70 years later, nothing seems to have changed but the time and date. This older gentleman’s gone onto his reward now. But the desire to entertain one remains. Amusement machines satisfy that. So why not tax them? Whether the Depression Era or the new millennium, Kansas still needs the revenue.

ASSUMPTIONS based on 30+ years experience,
in a number of different States:

- Each "operator" or "vendor" will average 100 machines "out on location"
- An average of 2 machines per location (50 Locations per Operator)
- \$2,500.00 annual license fee assessed each Operator, Vendor or Distributor
- \$ 100.00 annual permit "sticker" fee assessed each Operator, per machine
- \$ 250.00 annual license fee assessed each Location
- \$ 100.00 annual permit "sticker" fee assessed each Location, per machine

PROJECTED ANNUAL STATE REVENUE:

	<u>PER OPERATOR</u>	<u>PER LOCATION</u>
License	\$ 2,500.00	\$ 250.00
Machine Stickers	10,000.00 (100)	200.00 (2)
Each Operator =	\$12,500.00	\$ 450.00
(50 locations)	a↓	X 50 (Locations)
		= \$ 22,500.00
		b↓

Number Of Machines	Number Of Operators	State Revenue	Number Of Locations	State Revenue	TOTAL State Revenue
100	1	a↑ \$ 12,500	50	b↑ \$ 22,500	(Total Cols. a 7 b) \$ 35,000.00
1,000	10	\$ 125,000	500	\$ 225,000	\$ 350,000.00
5,000	50	\$ 625,000	2,500	\$ 1,125,000	\$ 1,750,000.00
10,000	100	\$ 1,250,000	5,000	\$ 2,250,000	\$ 3,500,000.00
15,000	150	\$ 1,875,000	7,500	\$ 3,375,000	\$ 5,250,000.00
20,000	200	\$ 2,500,000	10,000	\$ 4,500,000	\$ 7,000,000.00
25,000	250	\$ 3,125,000	12,500	\$ 5,625,000	\$ 8,750,000.00
30,000	300	\$ 3,750,000	15,000	\$ 6,750,000	\$10,500,000.00

presented by
John Walker,
Adm. MANAGER
& Director

Speed MASTER

Video Redemption Game

"IT'S ALL ABOUT SKILL"

Presented By:

Growth Unlimited Corp.
1200-1204 Broadway • P. O. Box 42
Red Oak, Iowa 51566
1-800-831-4014
Fax: (712) 623-3532
growthunlimited@hotmail.com

Hs Taxation Committee
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Attachment 4

HOW TO PLAY THE GAME

The objective of the *Speed Master* is really quite simple. It's basically a **tic-tac-toe** format.

Once you plug the game in you'll see **TWO** screens...

- ★ **One** with nine symbols (**main screen**)
- ★ **Another**, to the right, with three symbols (**replacer screen**)

Each of the **5** rows (3 vertical and 2 diagonal) have corresponding targets shown above them.

- ★ **Each target** (or row of 3 symbols) has a "target button" below it.
- ★ **The object** is to create a **tic-tac-toe** winning combination.
- ★ You do this by **replacing the entire row** of 3 symbols in the main screen with the 3 symbols in the replacer screen. Watch the screen in demo mode before you start a game for an example of all 3 symbols being replaced.
- ★ **Target Buttons 1, 2 & 3** replace that same numbered **vertical row**.
- ★ **Target Buttons 4 & 5** replace the **diagonal rows**.
- ★ **REMEMBER: ALL 3 SYMBOLS** get replaced... NOT JUST THE ONE.
- ★ **EVERY PLAY** is a potential winner, and it is **DEFINITELY SKILL** that wins!

How To Play The **BONUS ROUND**:

Once in a while you'll have the opportunity to end up with the **American flag** in the **Center Box** of the **Main Screen**. This starts the bonus round.

- ★ **In the bonus round** you'll have "ONE MAIN SCREEN", but you'll have 5 replacer screens to choose from. Take a look at the main screen and, once you press "Start", the replacer screen will open up.
- ★ If you like that replacer screen, press the correct target button for the win.
- ★ If you think you can do better, hit "Skip" and the 2nd of 5 replacer screens will open. Again, either hit play or skip. You have 5 to choose from.
- ★ Once you skip, you cannot go back.
- ★ Pay close attention to how many replacers you have.
- ★ You must also watch the "Timer". You are on a clock here!
- ★ At the end of the bonus round, which screen was the best choice will be indicated.

How's YOUR Skill ?

JEFF ELDER

I was contacted by Mr. Brown a couple of years ago to research whether what are commonly referred to as “phone card machines” were illegal gambling devices as defined by Kansas law. It was determined that they were, and the machines my client had in the State were voluntarily removed.

My client has tried to market other machines in this State with mixed results. In some counties, the machines he has marketed are not being questioned. In other counties, the machines have been seized as illegal gambling devices.

There is no regulations or guidance to businesses like my clients’ to determine whether the products they market are legal or illegal.

This proposed legislation will allow the marketing of “amusement machines” as defined by statute. Several other States have legislation which regulates and taxes machines of this type.

As defined, these machines are not illegal gambling devices. K.S.A. 21-4302 (the text of which is attached) defines “gambling”. If you examine this statute, and the interpretation of that statute by courts and advisory opinions issued by the Attorney Generals’ Office, a critical element of a “gambling device” is that whether the participant wins or loses is *dependent upon chance*.

The proposed legislation makes it clear that the operation of these machines depends in whole or predominately *on the skill of the player*.

Businesses like my client could market machines that fit the definition of this proposed legislation without it being enacted. The problem with doing so is that the business faces the possibility that one jurisdiction will consider the machines to be legal, and another will consider them to be illegal. If they are considered illegal, the business or the location where they are marketed, can face criminal prosecution.

Regulation of these type of machines will (1) provide businesses like my client’s, and the businesses where they are placed, to be assured that the machine is legal (2) it will help in the enforcement of machines that are illegal, and we believe will ultimately lead to machines that are truly “illegal gambling devices” to be removed from this State; and (3) it will provide revenue to this State.

K.S.A. § 21-4302

KANSAS STATUTES ANNOTATED
CHAPTER 21.--CRIMES AND PUNISHMENTS
KANSAS CRIMINAL CODE (ARTICLES 31 TO 47)
PART II.--PROHIBITED CONDUCT
ARTICLE 43.--CRIMES AGAINST THE PUBLIC MORALS

21-4302. Gambling; definitions.

(a) 'Bet' means a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:

(1) Bona fide business transactions which are valid under the law of contracts including, but not limited to, contracts for the purchase or sale at a future date of securities or other commodities, and agreements to compensation for loss caused by the happening of the chance including, but not limited to, contracts of indemnity or guaranty and life or health and accident insurance;

(2) offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, or endurance or to the bona fide owners of animals or vehicles entered in such a contest;

(3) a lottery as defined in this section;

(4) any bingo game by or for participants managed, operated or conducted in accordance with the laws of the state of Kansas by an organization licensed by the state of Kansas to manage, operate or conduct games of bingo;

(5) a lottery operated by the state pursuant to the Kansas lottery act;

(6) any system of parimutuel wagering managed, operated and conducted in accordance with the Kansas parimutuel racing act; or

(7) tribal gaming.

(b) 'Lottery' means an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance. A lottery does not include:

(1) A lottery operated by the state pursuant to the Kansas lottery act; or

(2) tribal gaming.

(c) 'Consideration' means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant.

Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration.

As used in this subsection, consideration does not include:

(1) Sums of money paid by or for participants in any bingo game managed, operated or conducted in accordance with the laws of the state of Kansas by any bona fide nonprofit religious, charitable, fraternal, educational or veteran organization licensed to manage, operate or conduct bingo games under the laws of the state of Kansas and it shall be conclusively presumed that such sums paid by or for such participants were intended by such participants to be for the benefit of the sponsoring organizations for the use of such sponsoring organizations in furthering the purposes of such sponsoring organizations, as set forth in the appropriate paragraphs of subsection (c) or (d) of section 501 of the internal revenue code of 1986 and as set forth in K.S.A. 79-4701 and amendments thereto;

(2) sums of money paid by or for participants in any lottery operated by the state pursuant to the Kansas lottery act;

(3) sums of money paid by or for participants in any system of parimutuel wagering managed, operated and conducted in accordance with the Kansas parimutuel racing act; or

(4) sums of money paid by or for a person to participate in tribal gaming.

(d) (1) 'Gambling device' means:

(A) Any so-called 'slot machine' or any other machine, mechanical device, electronic device or other contrivance an essential part of which is a drum or reel with insignia thereon, and (i) which when operated may deliver, as the result of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(B) any other machine, mechanical device, electronic device or other contrivance (including, but not limited to, roulette wheels and similar devices) which is equipped with or designed to accommodate the addition of a mechanism that enables accumulated credits to be removed, is equipped with or designed to accommodate a mechanism to record the number of credits removed or is otherwise designed, manufactured or altered primarily for use in connection with gambling, and (i) which when operated may deliver, as the result of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(C) any subassembly or essential part intended to be used in connection with any such machine, mechanical device, electronic device or other contrivance, but which is not attached to any such machine, mechanical device, electronic device or other contrivance as a constituent part; or

(D) any token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet.

The fact that the prize is not automatically paid by the device does not affect its character as a gambling device.

(2) Gambling device does not include:

(A) Any machine, mechanical device, electronic device or other contrivance used or for use by a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission or by the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas lottery commission;

(B) any machine, mechanical device, electronic device or other contrivance, such as a coin-operated bowling alley, shuffleboard, marble machine (a so-called pinball machine), or mechanical gun, which is not designed and manufactured primarily for use in connection with gambling, and (i) which when operated does not deliver, as a result of chance, any money, or (ii) by the operation of which a person may not become entitled to receive, as the result of the application of an element of chance, any money;

(C) any so-called claw, crane, or digger machine and similar devices which are designed and manufactured primarily for use at carnivals or county or state fairs; or

(D) any machine, mechanical device, electronic device or other contrivance used in tribal gaming.

(e) A 'gambling place' is any place, room, building, vehicle, tent or location which is used for any of the following: Making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place.

(f) 'Tribal gaming' has the meaning provided by K.S.A. 74-9802 and amendments thereto.

(g) 'Tribal gaming commission' has the meaning provided by K.S.A. 74-9802 and amendments thereto.



**Kansas
Licensed
Beverage
Association**

President

James "Jim" Fager

Vice Presidents

Tammy Davis

Tom Intfen

Robert Farha

Jim Hendricks

Curt Melzer

Richard Markle

Paul Boone

Billy Long

Leigh Watkins

Drew Mullen

Sean Haydock

Treasurer

Mark Barrett

National Director

Tammy Davis

Executive Director

Philip Bradley, PhD.

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Testimony on HB-2524, March 22, 2005
House Taxation Committee

Mr. Chairman, and Representatives of the Committee,

I am Philip Bradley representing the Kansas Licensed Beverage Assn., the men and women, in the hospitality industry, who own and manage bars, clubs, caterers, restaurants, breweries and hotels where beverage alcohol is served. Thank you for the opportunity to submit testimony today.

We support HB-2524.

The machines described in this bill exist throughout our state and are common nationwide. Our citizens enjoy the play and stimulation of using their skills and talents in friendly competition in every community in our state. We welcome a clarification of the status of this recreation activity.

This legislation is a well considered solution to the challenge of making sure that our citizens are protected while at the same time assisting businesses in assuring that the recreation needs of the public are met in a safe manner.

And although it is rare, our organization supports a tax to ensure the goals in this bill are met. We could also *support a lesser tax* than specified in the bill. The three layers make for a substantial cost to small business owners.

The State of Kansas ABC has 2099 licensed on-premise establishments. According to the latest estimates there is an additional 3000+ CMB businesses. Also there are thousands of other venues where amusement machines are placed and operate. The consistent equal application of this type of regulation would allow for the safe use and assist the state in protecting the public. As stated in the Fiscal note the revenue stream would be quite significant.

Additionally *we support the suggested amendment by the KDOR* to allow the entire Department to be responsible for the regulation, not just the ABC. In Section 4, the penalties are substantial and do not allow for enough judgement flexibility in cases of obvious vandalism or other uncontrollable circumstances. *We would ask the language be changed from shall to may on page 6, lines 29 and 39.*

Therefore, we ask and urge you to pass HB-2524 with the above changes.

As always I am available for questions. Thank you for your time.

Philip Bradley
Executive Director



House Taxation Committee
March 22, 2005
Attachment 6



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

March 22, 2005

Testimony to the House Taxation Committee
Joan Wagnon

House Bill 2524

Representative Wilk, Chair, and Members of the Committee:

The Department expresses strong support for House Bill 2524, which provides for the regulation, taxing and licensing of certain amusement machines. Department staff worked closely with Representative Huff and the Revisor in the development of this proposal. We do recommend that the bill be amended to provide that the "Secretary of Revenue," instead of the "Director of Alcohol Beverage and Control," administer this program. Several areas of the Department (especially our licensing staff in the Division of Taxation) need to be involved to efficiently administer the program using existing resources, not Alcohol Beverage Control alone. These types of amusement machines are growing in popularity and offer the potential for a significant new revenue source for the state.

We encourage your support for this bill.

HOUSE BILL No. 2524

By Committee on Taxation

3-15

9 AN ACT regulating certain amusement machines; providing duties and
10 responsibilities of the director of alcoholic beverage control; relating
11 to licensure; taxes; penalties for criminal acts.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. As used in sections 1 through 8, and amendments thereto:

15 (a) "Applicant" or "licensee" means owner, including an owner's of-
16 ficers, directors, shareholders, individuals, members of any association or
17 other entity not specified; and, when applicable in context, the business
18 entity itself;

19 (b) (1) "bona fide coin operated amusement machine subject to reg-
20 istration" means any mechanical or electrical device or video game used
21 by the public to provide amusement or entertainment, and whose
22 operation:

23 (A) Requires the payment of or the insertion of a United States coin
24 or bill;

25 (B) the result of whose operation depends in whole or predominant
26 part upon the skill of the player; and

27 (C) which affords an award to a successful player;

28 (2) each game, task or play on the bona fide coin operated amusement
29 machine subject to registration shall be winnable by a player with the
30 requisite skill. The outcome of each game must be determined exclusively
31 by the player and not the machine. A machine can neither predetermine
32 a winner or limit the number of prizes to a predetermined quantity. All
33 such bona fide coin operated amusement machines which afford awards
34 to successful players must be registered with the state as provided in
35 section 2, and amendments thereto;

36 (3) a bona fide coin operated amusement machine does not include:

37 (A) Pinball machines;

38 (B) console machines;

39 (C) video games which do not afford the player an award;

40 (D) crane machines;

41 (E) claw machines;

42 (F) pusher machines;

43 (G) bowling machines;

- 1 (H) novelty arcade games;
- 2 (I) foosball or table soccer machines;
- 3 (J) miniature racetrack, football or golf machines;
- 4 (K) target or shooting gallery machines;
- 5 (L) basketball machines;
- 6 (M) shuffleboard games;
- 7 (N) kiddie ride games;
- 8 (O) skeeball machines;
- 9 (P) air hockey machines;
- 10 (Q) roll down machines;
- 11 (R) trivia machines;
- 12 (S) laser games;
- 13 (T) simulator games;
- 14 (U) virtual reality machines;
- 15 (V) maze games;
- 16 (W) racing games; and
- 17 (X) coin operated pool tables or coin operated billiard tables; and
- 18 (4) a player of a "bona fide coin operated amusement machine sub-
- 19 ject to registration" may accumulate winnings for the successful play of
- 20 such bona fide coin operated amusement machine through tokens, vouch-
- 21 ers, points or tickets. Points may be accrued on the machine or device.
- 22 A player may carry over points on one play to subsequent plays. A player
- 23 may redeem accumulated tokens, vouchers or tickets for cash or noncash
- 24 merchandise or prizes, or both;
- 25 (c) ~~"director"~~ means the ~~director of alcoholic beverage control;~~
- 26 (d) "location" means a facility open to the public or private members
- 27 where one or more bona fide coin operated amusement machines reg-
- 28 istered with the state are available for commercial use and play;
- 29 (e) "master license" and "location license" means the certificate
- 30 which every owner or operator, or vendor of a bona fide coin operated
- 31 amusement machine registered with the state and every location owner,
- 32 manager or operator of a facility where such machines are available for
- 33 play shall purchase and display in the location where the machine is lo-
- 34 cated in order to operate the machine in the state in compliance with the
- 35 requirements of section 1 et seq., and amendments thereto;
- 36 (f) "operator", "distributor" or "vendor" means any person, individ-
- 37 ual, firm, company, association, corporation or other business entity who
- 38 exhibits, displays or permits to be exhibited or displayed, in a place of
- 39 business other than such operator's, distributor's or vendor's business,
- 40 any bona fide coin operated amusement machine in this state;
- 41 (g) "permit tax" means the annual per machine charge for state issued
- 42 "stickers", which every owner, distributor, operator or vendor of a bona
- 43 fide coin operated amusement machine registered with the state and

Secretary

Secretary of revenue

1 every location owner, manager or operator shall each purchase and dis-
2 play on each such machine in order to legally operate the machine in the
3 state;

4 (h) (1) "skill" means any presence of the following factors, alone or
5 in combination with one another:

- 6 (A) A learned power of doing a thing competently;
- 7 (B) a particular craft, art, ability, strategy or tactic;
- 8 (C) a developed or acquired aptitude or ability;
- 9 (D) a coordinated set of actions, including, but not limited to, eye-
10 hand coordination;
- 11 (E) dexterity, fluency or coordination in the execution of learned
12 physical or mental tasks or both;
- 13 (F) technical proficiency or expertise;
- 14 (G) development or implementation of strategy or tactics in order to
15 achieve a goal; or
- 16 (H) knowledge of the means or methods of accomplishing a task; and

17 (2) the term skill refers to a particular craft, coordinated effort, art,
18 ability, strategy or tactic employed by the player to affect in some way
19 the outcome of the game played on a machine. If a player can take no
20 action to affect the outcome of the game, the machine does not meet the
21 "skill" requirement of this subsection, and is not a bona fide coin operated
22 amusement machine; and

23 (i) "sticker" means the decal issued upon payment of the required
24 permit tax, by both owners of bona fide coin operated amusement ma-
25 chines and owners or operators of locations where such machines are
26 made available for use. Each bona fide coin operated amusement ma-
27 chine shall display such "stickers" or "decal" issued to the machine owner
28 and to the location owner or operator to show proof of payment of the
29 permit tax.

30 Sec. 2. (a) (1) Every owner, distributor, operator or vendor, except
31 an owner holding a bona fide coin operated amusement machine solely
32 for personal use or resale, who distributes, sells, operates or vends any
33 bona fide coin operated amusement machine or machines for commercial
34 use and for play by others in this state shall pay an annual master license
35 tax of \$2,500.

36 (2) Every location where a bona fide coin operated amusement ma-
37 chine or machines are made available for commercial use and for play by
38 others in this state shall pay an annual location license tax of \$250.

39 (3) The cost of a license issued under this section shall be paid to the
40 ~~director~~ by company check, cash, cashier's check or money order. Upon
41 such payment, the ~~director~~ shall issue a master license certificate to the
42 machine owner, distributor, operator or vendor and a location license
43 certificate to the location facility where the machine or machines are

Secretary

Secretary

1 made available for use and for play. The license tax levied by this section
 2 shall be collected by the ~~director~~ on an annual basis. The ~~director~~ may
 3 establish procedures for license collection and set due dates for these
 4 license payments. No refund or credit of the license charge levied by this
 5 section may be allowed to any owner, distributor, operator or vendor, or
 6 location who ceases the operation of bona fide coin operated amusement
 7 machines prior to the expiration of the license.

Secretary

8 (b) Copies of both the master license and the location license shall
 9 be prominently displayed at all locations where the bona fide coin oper-
 10 ated amusement machines are available for commercial use to evidence
 11 the payment of taxes levied under this section.

12 (c) Each master license and location license shall list the name of the
 13 licensee and shall have a control number which corresponds with the
 14 control number issued on the machine permit sticker to allow for effective
 15 monitoring of the licensing and permit system.

Secretary

16 (d) The ~~director~~ may provide a duplicate master license or location
 17 license certificate if the original license certificate has been lost, stolen
 18 or destroyed prior to its expiration. The tax for a duplicate original license
 19 certificate is \$100. If the original license certificate is lost, stolen or de-
 20 stroyed, a sworn, written statement shall be submitted explaining the
 21 circumstances by which the license was lost, stolen or destroyed and in-
 22 clude the number of the lost, stolen or destroyed license certificate before
 23 a duplicate original license certificate can be issued. A license for which
 24 a duplicate license certificate has been issued is void.

25 (e) A master license under this section:

- 26 (1) Is effective for a single business entity;
- 27 (2) vests no property or right in the licensee except to conduct the
- 28 licensed business during the period the license is in effect;
- 29 (3) is nontransferable, nonassignable and not subject to the execution;
- 30 (4) expires upon the death of an individual licensee or upon the dis-
- 31 solution of any other licensee; and
- 32 (5) shall be valid for a period of one year from the date of purchase.

33 (f) Acceptance of a master license or location license, or both, issued
 34 under this section constitutes consent by the licensees that the ~~director~~
 35 or the ~~director's~~ agents may freely enter the licensed location premises
 36 where bona fide coin operated amusement machines are available for use,
 37 during normal business hours, for the purpose of ensuring compliance
 38 with this section.

Secretary's

Secretary

39 (g) An application for a master license to do business under this sec-
 40 tion shall contain a complete statement regarding the ownership of the
 41 business to be licensed.

42 (h) The application shall be accompanied by the annual tax.

43 (i) A renewal application after a master license or location license

1 expires, shall be accompanied by a late fee of \$125 in addition to the
2 annual license tax. If a master license or location license has been expired
3 for more than 90 days, the licensee may not renew the license. In such
4 case, the licensee shall obtain a new license by complying with the
5 requirements and procedures for obtaining an original license.

6 (j) A licensee who properly completes the application and remits all
7 taxes with it by the due date may continue to operate bona fide coin
8 operated amusement machines after the expiration date if its license re-
9 newal has not been issued, unless the licensee is notified by the ~~director~~
10 prior to the license expiration date of a problem with the license renewal.

secretary

11 (k) A location license issued under this section:

12 (1) Is effective for a single location only;

13 (2) vests no property right in the licensee except to conduct the op-
14 eration of a licensed bona fide coin operated amusement machine during
15 the period the license is in effect;

16 (3) is nontransferable and nonassignable by and between other lo-
17 cations and entities; and

18 (4) expires upon the death of an individual licensee or upon the dis-
19 solution of any other licensee.

20 Sec. 3. (a) Every licensee who offers others the opportunity to play
21 for a charge, whether direct or indirect, any bona fide coin operated
22 amusement machine shall each pay an annual permit tax of \$100 per bona
23 fide coin operated amusement machine. The tax shall be paid to the

secretary

24 ~~director~~ by company check, cash, cashier's check or money order. Upon
25 payment, the ~~director~~ shall issue a sticker, valid for one year from the
26 date of purchase, for each coin operated machine for the master license
27 holder for each machine and one to the location license holder for each

secretary

28 machine. The annual taxes levied by this section shall be collected by the
29 ~~director~~ on an annual basis. The ~~director~~ may establish procedures for
30 annual collection and set due dates for the tax payments. No refund or
31 credit of the annual tax levied by this section shall be allowed to any
32 licensee who ceases the exhibition or display of any coin operated ma-
33 chine prior to the expiration date of the permit sticker.

secretary

34 (b) The permit stickers issued by the ~~director~~ to evidence the pay-
35 ment of the taxes under this section shall be securely attached to the
36 machine. Master license holders may transfer stickers from one machine
37 to another and machines from location to location so long as all machines
38 in commercial use available for play have a permit sticker and the master
39 license holder uses the permit stickers only for machines that it owns.

40 (c) Each permit sticker shall not list the name of the license holder
41 but shall have a control number which corresponds with the control num-
42 ber issued on the license certificate to allow for effective monitoring of
43 the licensing and permit system. Permit stickers are only required for

1 bona fide coin operated amusement machines in commercial use available
2 for play.

Secretary

3 (d) The ~~director~~ may provide a duplicate permit sticker if a valid
4 permit sticker has been lost, stolen or destroyed prior to its expiration.
5 The tax for a duplicate permit sticker shall be \$10. If a permit sticker is
6 lost, stolen or destroyed, a sworn, written statement shall be submitted
7 explaining the circumstances by which the permit sticker was lost, stolen
8 or destroyed and include the number of the lost, stolen or destroyed
9 permit before a replacement permit sticker shall be issued. A permit
10 sticker for which a duplicate permit sticker has been issued is void.

11 (e) If an additional coin operated amusement machine is purchased
12 or received for operation within this state in the calendar year, the permit
13 taxes prescribed in this section shall be paid to the ~~director~~ and the sticker
14 shall be affixed to the machine before the machine may be legally oper-
15 ated. A penalty tax shall be assessed by the ~~director~~ for every machine in
16 operation without a permit sticker.

Secretary

17 Sec. 4. (a) If any owner or operator of any bona fide coin operated
18 amusement machine in this state violates any provision of section 1 et
19 seq., and amendments thereto, or any rule and regulation promulgated
20 thereunder, the ~~director~~ may investigate the violation and may provide
21 sanctions as follows:

Secretary

22 (1) For a first offense:

Secretary

23 (A) The ~~director~~, an authorized representative of the ~~director~~, or any
24 law enforcement officer may seal in a manner that will prevent its full
25 operation any such bona fide coin operated amusement machine that is
26 in commercial use available for play that does not have the requisite per-
27 mit stickers or whose permit stickers issued under section 1 et seq., and
28 amendments thereto, have expired or have been suspended or revoked;

29 (B) a citation shall be issued to the location, with copy sent to regu-
30 latory agency, which shall be presented at time of license and permit
31 application; and

32 (C) payment of proper license and permit tax and fines of \$200 for
33 each such unregistered machine in operation.

34 (2) For a second offense:

35 (A) All sanctions provided in subsection (a)(1) (A) through (C); and

36 (B) all late taxes shall be doubled.

37 (3) For a third offense: All license and sticker applications shall be
38 denied.

Secretary

39 (b) The ~~director~~ shall charge a release tax of \$75 for the release of
40 any bona fide coin operated amusement machine which is sealed. The
41 tax shall be paid to the director.

Secretary

42 Sec. 5. (a) The ~~director~~ shall remit all moneys received by or for the
43 director under section 1, et seq., and amendments thereto, to the state

1 treasurer in accordance with the provisions of K.S.A. 75-4215, and
2 amendments thereto. Upon receipt of each such remittance, the state
3 treasurer shall deposit the entire amount in the state treasury to the credit
4 of the state general fund.

Secretary

5 (b) The ~~director~~ may promulgate rules and regulations to carry out
6 the provisions of this act.

7 Sec. 6. (a) Criminal removal of a permit sticker is the intentional
8 removal of a current permit sticker by a person other than a master license
9 holder from a bona fide coin operated amusement machine or from the
10 location where the machine is located.

11 (b) As used in this section, unless otherwise appropriate, terms shall
12 have the meanings as defined in section 1 et seq., and amendments
13 thereto.

14 (c) Criminal removal of a permit sticker is a class C nonperson
15 misdemeanor.

16 Sec. 7. (a) Criminal acquisition of a permit sticker is securing or at-
17 tempting to secure a permit sticker by fraud, misrepresentation or
18 subterfuge.

19 (b) As used in this section, unless otherwise appropriate, terms shall
20 have the meanings as defined in section 1 et seq., and amendments
21 thereto.

22 (c) Criminal acquisition of a permit sticker is a severity level 9, non-
23 person felony.

24 Sec. 8. (a) Criminal use of machines is:

Secretary's

25 (1) Breaking a seal affixed by the ~~director of alcoholic beverage con-~~
26 ~~trol or the director's~~ authorized representative or law enforcement officer
27 without approval of the ~~director~~;

Secretary of Revenue

28 (2) providing in commercial use available for play any bona fide coin
29 operated amusement machine after the seal has been broken without
30 approval of the ~~director~~; or

Secretary

31 (3) removing any bona fide coin operated amusement machine from
32 its location after such machine has been sealed by the ~~director~~.

33 (b) As used in this section, unless otherwise appropriate, terms shall
34 have the meanings as defined in section 1, and amendments thereto.

35 (c) Criminal use of machines is a class C nonperson misdemeanor.

36 Sec. 9. This act shall take effect and be in force from and after its
37 publication in the statute book.

Billiards and Games Inc
527 E Harry
Wichita Ks, 67211
(316)-267-4477
Fax (316)-267-5319

**Billiards and Games
Etc Inc**

Billiards & Games Inc.

**527 E. Harry
Wichita, Ks**

**Buy/Sell/Trade/Home/Commercial/Repairs
Office:(316)267-4411 Fax:(316)267-5319 Sales:(316)267-4477**

To: Representative David Huff **From:** Ronnie Cazel

Fax: (785) 368-6365 **Pages:** 1

Phone: (316) 267-4477 **Date:** 3/21/2005

Re: House Bill 2510 **CC:**

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

Dear Representative David Huff:

I would like to thank you for the time you have put in on H.R. 2510, as a Disturber/ Operator of coin operate equipment this bill would clarify many issues my customers as well as myself has with current state law. With this bill we as Disturber/Operators will not have to be concerned about "if" we are breaking state law. If you have any questions or need a question answered, please feel free to contact me at anytime. Again thank you for your support on House Bill 2510.

Thanks Ronnie Cazel, Pres.

Billiards and Games Inc.

March 21, 2005

Hs Taxation Committee
March 22, 2005
Attachment 8

STAND UP FOR KANSAS

P.O. Box 780127 • Wichita, KS 67278 • (316) 634-2674

Testimony To House Taxation Committee On House Bill 2524

Glenn O. Thompson
Executive Director, Stand Up For Kansas

March 22, 2005

Introduction

Good morning Chairman Wilk and members of the committee. Thank you for this opportunity to speak at this public hearing. I am speaking on behalf of Stand Up For Kansas, a state-wide coalition of grassroots citizens who oppose the expansion of gambling in Kansas.

We urge you to oppose House Bill 2524 for the following reasons:

1. **The machine that this bill proposes to regulate is simply a slot machine** (identified in the bill as a "bona fide coin operated amusement machine subject to registration"). It is a skill slot machine, not a lottery slot machine. Nevertheless, it is a slot machine.

On both machines, a player inserts coins or bills into the machine to play a game. The machine usually contains a video display showing the game as it progresses. The player uses some form of mechanical device, such as a mouse, button or lever, to play the game. Upon completion of the game, the player is awarded a prize, either cash or merchandise, if he wins the game.

2. **The difference between an illegal lottery slot machine and a legal skill slot machine is subtle and imperceptible to most people.**

In accordance with the Kansas constitution and Kansas Supreme Court rulings, any activity that has the elements of **consideration, chance and prize is a lottery** and is prohibited unless the activity is owned and operated by the state. But, Ks. statutes prohibit the state from owning and operating lottery slot machines.

On the other hand, a skill slot machine is legal. In general, designers of these machines get around the prohibition on a lottery slot machine by designing the games to use preprogrammed events, stored in memory at the factory, rather than random (chance) events computed as the game is played.

However, the difference between the two types of machines is imperceptible to most players. In fact, if you played both types of machines lined up, randomly, side-by-side along the wall of this room, I doubt that you could tell the difference in the two types of machines.

For example, card games can be played on both machines. The lottery slot machine contains a program that randomly selects the next card to be played, **making the machine illegal.**

Hs Taxation Committee
March 22, 2005
Attachment 9

The skill slot machine contains a program that selects the next deck (and then the next card) from many decks stored in the computer memory at the factory. Since the machine does not generate the next card or deck while the player actually plays the game, but merely displays the next card in a preprogrammed deck, **the machine is probably legal.**

I say "probably," since the legality of a game and/or a machine depends on many factors and, in the end, can be established only by the courts.

- 3. Taxing and regulating skill slot machines, as proposed by this bill, would sanction and encourage operation of the machines throughout the state.** The machines discussed in this bill are often called "gray machines," since some games in the machine may have a mixture of skill and chance, making them illegal. In fact, an operator may not even know if the machine in his business is legal because of the subtle legal difference between a lottery machine and a skill machine. Consequently, skill slot machines have seen limited use in Kansas.

However, taxing and regulating these slot machines would put the state's stamp of approval on the machines and encourage rapid expansion throughout the state. Since the bill contains no restrictions on location or player age, the slot machines would spread rapidly to game arcades in malls, bars and other entertainment centers throughout the state.

- 4. All slot machines are a public nuisance and should be prohibited.**

Prior to the development of high speed, microchip computers and high-resolution, color displays, most slot machines were mechanical, spinning-reel machines, with a large handle on the side to initiate play. Slot machines based entirely on skill were rare. So, Ks. statutes addressed only lottery slot machines.

Now, however, advanced computer technology has made the difference between lottery slot machines and skill slot machines imperceptible in most cases. Consequently, Kansas statutes need to be updated to reflect the traditional position of Kansas citizens that all slot machines, whether based on chance or based on skill, are a public nuisance and should be prohibited.

Conclusions

The machines this bill would tax and regulate are simply slot machines, although technically legal. Passage of this bill would encourage the spread of such machines throughout the state.

On numerous occasions, the legislature has taken the position that lottery slot machines would be a public nuisance and refused to pass bills permitting operation of such machines.

We urge this committee to take a similar position on skill slot machines by amending this bill to prohibit these machines in Kansas.

New Sec. __. Commencing for the 2006-2007 school year and each school year thereafter, the amount appropriated by the legislature for the department of education for general state aid shall not be less than the sum of: (1) The amount appropriated for the department of education for general state aid for the preceding school year; and (2) an amount equal to the growth in local effort from the property tax levied pursuant to the provisions of K.S.A. 72-6431, and amendments thereto, attributable to estimated increases in assessed valuation of taxable tangible property.