CHAPTER 22

Coin‑Operated Machines and Other Devices

Editor's Note

1999 Act No. 125, Part VI, Section 23, subsections (B) and (E), provide as follows:

"(B) Article 9 of Chapter 22, Title 12, as added in PART III, SECTION 10, takes effect July 1, 1999 except that Sections 12‑22‑1020 and 12‑22‑1030 take effect when the remaining provisions of PART III take effect as provided in subsection (E). If the remaining provisions of PART III do not take effect as provided in subsection (E), then Article 9 of Chapter 22, Title 12 is repealed on the date that the State Board of Canvassers certifies a majority 'no' vote in the referendum provided in Part II of this act. Sections 12‑22‑730 and 12‑22‑740 and subsections (19) and (22) of Section 12‑22‑10, as added in Part III, SECTION 10, take effect June 1, 1999. If the remaining provisions of Part III do not take effect, then Sections 12‑22‑730 and 12‑22‑740 and subsections (19) and (22) of Section 12‑22‑10 are repealed on the date that the State Board of Canvassers certifies a majority 'no' vote in the referendum provided in Part II of this act;

"(E) If the State Board of Canvassers certifies a majority 'yes' vote in the referendum provided in Part II of this act, then Part I does not take effect, and the remaining provisions of Part III take effect on December 1, 1999 and SECTION 19 OF PART IV is repealed, except that the provisions of SECTION 21 shall apply to any pending civil actions brought under Section 12‑21‑2805.

In Joytime Distributors and Amusement Co., Inc., v. The State of South Carolina, 338 S.C. 634, 528 S.E.2d 647 (1999), the Supreme Court of South Carolina stated:

". . . we hold that in enacting Part II of Act 125, the General Assembly unconstitutionally delegated its power to enact the general law of this state and we invalidate Part II of the Act and enjoin the holding of the referendum. Since Part II of Act 125 is invalid, those portions of Part III of the Act which provide for regulation of the video gaming industry, contingent upon the referendum called for in Part II, are also invalid. . . ."

Further, the court stated:

"Joytime asserts, however, that certain provisions in Act 125 became effective on June 1 and July 1 of this year and are only repealed in the case of a majority 'no' vote; Act 125 contains no provision for their repeal without a referendum. . . . However, those provisions relate, in the interim, to registering machines, to the number of video machines which are located on any one premise, and to casinos. The provisions are not inconsistent with the intent of the legislature to ban video gaming on July 1, 2000. Should the legislature fail to repeal those provisions when it reconvenes, they will be repealed by necessary implication. . . ."

[Provisions to be repealed by necessary implication, effective July 1, 2000, include: Sections 12‑22‑10(19), 12‑22‑10(22), 12‑22‑730, 12‑22‑740, and all of Article 9, consisting of Sections 12‑22‑910 through 12‑22‑1080.]

See Section 12‑21‑2710, as amended by 1999 Act 125, Part I, Section 1, effective July 1, 2000.

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ARTICLE 1

General Provisions

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑10.** Definitions.

 [Only subsections (19) and (22) of this section, as found in 1999, Act No. 125, Section 10, took effect June 1, 1999. See Editor's Note at the beginning of this chapter.]

 (19) "Person" means any individual, partnership, corporation, association, entity, or organization of any type.

 (22)(a) "Principal" means:

 (i) every person;

 (ii) an association;

 (iii) all partners of a partnership, limited partnership, or limited liability partnership;

 (iv) all members of a limited liability company, or if the company is a manager‑managed company, all members and managers;

 (v) trust and its beneficiaries;

 (vi) corporation, its directors, officers, and stockholders with a ten percent or more direct or beneficial interest or any person or entity that receives more than ten percent of the net income; or

 (vii) an employee who has day‑to‑day operational management responsibilities for the business or entity; which has or will have a direct or indirect ownership interest in a machine or machines, a manufacturer, a machine owner, distributor, a machine operator or the establishment for which the applicant seeks a new or renewal license.

 (b) "Indirect ownership interest" includes, but is not limited to, a loan or extension of credit or forgiving of a loan of ten thousand dollars or more, made to or for the benefit of an applicant or licensee. Indirect ownership interest' does not include a loan or extension of credit made by a state or federally chartered financial institution or a restricted or supervised lender licensed under South Carolina law. Multiple loans of less than ten thousand dollars may not be used to evade the requirements of this chapter and such activity is grounds for revocation of any and all licenses issued pursuant to Section 12‑22‑320 held by the applicant.

 (c) If a corporation is a member of a controlled group of corporations, as defined in 26 U.S.C. 1563, or a member of an affiliated group of corporations, as defined in 26 U.S.C. 1504, and at least one member of the group of corporations is a publicly‑held corporation, then only the corporation which engages in the business or activity required to be licensed pursuant to this chapter is considered a principal for purposes of this chapter, along with its directors, officers, and stockholders as described in subitem (a)(vi).

 (d) For purposes of item (c) of this subsection, "publicly held corporation" means a corporation:

 (i) whose shares are traded on a national exchange; and

 (ii) whose total assets at the end of the corporation's most recent fiscal quarter exceeded one billion dollars.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter, relating to repeal by necessary implication, effective July 1, 2000.

ARTICLE 7

Location Restrictions, Public Notice, and Signage

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑730.** Regulations.

 The department must issue regulations to strictly enforce the provisions of this chapter so as to prevent the licensure of an establishment or establishments that would allow machine operators to circumvent the prohibition against more than five machines being located on any premises. Nothing in this section, and the terms as they are defined in this chapter, shall be construed to be unenforceable because of the pendency of, or the failure to issue, any regulations by the department. This chapter must be liberally construed to supercede any regulation in existence after the effective date of this act that would impede the department in any way from strictly enforcing the provisions of this chapter regarding the prohibition against more than five machines being licensed on the same premises.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter, relating to repeal by necessary implication, effective July 1, 2000.

**SECTION 12‑22‑740.** Machines prohibited at casinos.

 (A)(1) Except as provided in subsection (B), machines shall not be operated or continue to operate at any casino. For purposes of this chapter, the term "casino" shall mean both of the following:

 (a) any two or more "single places or premises", as that term was defined, applied, and interpreted in Regulation 117‑190 on or before May 31, 1999, that are located within a single structure; and

 (b) beginning December 1, 1999, any two or more establishments located within one hundred feet of each other that have establishment licenses issued to the same person or a person who has the same principals.

 (2) In determining whether an establishment violates this section, the department shall consider whether more than one licensed establishment operates within a single structure, unless the distance between the licensed establishments exceeds one hundred feet and the licensed establishments are not owned by the same person, do not have any of the same principals, and the owner of one is not a principal of another licensed establishment. Licenses denied under this section are subject to review under Section 12‑60‑1310.

 (B)(1) A casino shall not operate or continue to operate except as provided in this subsection. No casino shall continue to operate as a casino unless on May 31, 1999:

 (a) machines were both licensed and in operation within each "single place or premises" as that term was defined, applied, and interpreted in Regulation 117‑190 on or before May 31, 1999; and

 (b) each single place or premises within the casino met the qualifications of Regulation 117‑190 and a certificate of occupancy, if otherwise required by law, has been issued for the structure within which two or more single places or premises are located.

 (2) After December 1, 1999, each casino authorized to operate after May 31, 1999, shall be permitted to re‑apply for and may be granted renewal of licenses that, notwithstanding any other provision of the law, must expire and may not be renewed after July 1, 2004. Pursuant to Sections 1, 9, and 11 of Article V, the General Assembly provides that the Magistrate, Circuit and Appellate Courts do not have jurisdiction to extend the termination date of July 1, 2004, and may not enjoin the enforcement of this subsection by the department or the division. Nothing in this subsection shall be construed to affect the jurisdiction of the state courts regarding other provisions of this chapter.

 (3)(a) After July 1, 2004, casinos may continue to operate within a county if the county governing body, prior to July 1, 2004, adopts an ordinance authorizing the operation of casinos.

 (b) An ordinance adopted pursuant to this item may not authorize the operation of a casino if the casino was not in operation on May 31, 1999.

 (4) If the provisions of item (3) are declared unconstitutional by a final order of a court of competent jurisdiction, then the provisions of Section 12‑22‑710(A)(1) shall apply in the entire state.

 (C) All casinos authorized to operate after May 31, 1999:

 (1) on or before January 1, 2000, conduct business as a single operation and be licensed as a single licensed establishment to maintain on the premises more than five licensed machines;

 (2) advise the department of the machine licenses currently issued and the licenses currently issued for each single place or premises within the structure and return the licenses for each single place or premises to the department at the time the new license for the single licensed establishment is approved by the department and issued;

 (3) once licensed as a single establishment, never have licenses for any number of machines greater than the total number of machines licensed in the structure as of May 31, 1999, as asserted in the statement required in item (5);

 (4) never increase the number of machines permitted by this section after any reduction in the number of machines at the licensed establishment; provided, that a reduction, as that term is used in this subsection, does not include the routine removal and replacement of machines for maintenance, repair, service, or similar purpose; and

 (5) on or before January 1, 2000, file with the department a sworn statement asserting any and all reasons why it is entitled to the benefits conferred by this subsection (B).

 (D) Any person claiming the benefits of subsection (B) shall have the burden of proof and must establish by clear and convincing evidence that he is entitled to operate the structure as a single licensed establishment with more than five licensed machines. Any transferee of an interest in such an establishment shall be subject to all limitations of this section.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter, relating to repeal by necessary implication, effective July 1, 2000.

ARTICLE 9

Machine Requirements

Editor's Note

See Editor's Note at the beginning of this Chapter, relating to repeal by necessary implication, effective July 1, 2000.

**SECTION 12‑22‑910.** Machine license required.

 (A) Before a machine may be connected or remain connected to the central computer monitoring system, the machine must have a current and valid machine license. The machine owner and machine operator, and the establishment at which the machine is located must have current and valid licenses as required by this chapter.

 (B) Each machine or device licensed pursuant to this chapter must be operated in a stand‑alone fashion and may not be linked in any way to another machine, except as otherwise provided in this chapter.

 (C) Any machine which is not connected to the central computer monitoring system after February 1, 2000, shall be considered to be illegal and a contraband machine.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑920.** Types of machines and equipment permitted.

 (A) All machines, location controllers and associated modems, and computer chips must be verifiably of a make, model, and software version certified by the department or a testing lab selected by the department before the items may be possessed, owned, operated, or allowed to operate at any place within this State.

 (B) A person may not possess, own, operate, or allow the operation of a contraband machine or device at any place within this State.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑930.** Requirements for machine licensure.

 (A) Not later than December 1, 1999:

 (1) each machine must meet standards provided in subsection (B) of this section and the machine owner shall certify to the department, under oath and in a form prescribed by the department, that the machines are prepared for connection to the central computer monitoring system; or

 (2) each machine owner must certify to the department, under oath and in a form prescribed by the department, that he has ordered all location controllers and associated modems, computer chips, associated equipment, software, hardware, and any other equipment required by this chapter in order for his machines to be connected to the central computer monitoring system.

 (B) Not later than December 1, 1999, and subject to the provisions of subsection (A)(2), all machines and equipment must:

 (1) have games that are random and have a minimum theoretical payback of between ninety percent and ninety‑nine percent, within standard rounding, in which the theoretical payback percentage is determined using standard methods of probability theory at optimal play;

 (2) be secure and accountable;

 (3) not operate in a misleading or deceptive manner;

 (4) not have any means of manipulation that affect the random probabilities of winning a game;

 (5) have one or more mechanisms that accept only coins or cash in the form of bills. The mechanisms must be designed to prevent obtaining credits without paying by stringing, slamming, drilling, or other means;

 (6) have one or more metering devices that keep a record of (a) all cash inserted or deposited into the machine; (b) credits played, (c) credits won, (d) validated cash ticket amounts, and (e) other information prescribed by the department. Cash records must include total coins and bills accepted and total credit generated by coin and bill acceptors;

 (7) be capable of being accessed on demand by telecommunication through a location controller from the central computer monitoring system for purposes of polling or reading device activities and for central computer remote enabling or disabling of machine operations;

 (8) be capable of interfacing with a central computer monitoring system through a location controller;

 (9) when required by the department after certification, be connected to the central computer monitoring system through a location controller; and

 (10) meet the standards set by the department and those set forth in this chapter.

 (C)(1) Machines not meeting the standards of this chapter, or the standards of the department, shall not be licensed. The license of any machine which fails to maintain the standards of this chapter shall be revoked.

 (2) The department shall connect licensed machines at licensed establishments meeting the requirements of this section to the central computer monitoring system as soon as is practicable after receipt of certification from the machine owner that a machine meets the standards of this section, no later than February 1, 2000. A machine owner who provides the certification provided in subsection(A) may provide payouts as provided in Section 12‑22‑1020 beginning on December 1, 1999. A machine owner who provides the certification provided in subsection (A)(2) shall provide the certification provided in subsection (A)(1) by February 1, 2000; if the certification is not provided on that date, the machine shall be disabled and the machine owner shall be subject to the penalties provided in this chapter.

 (D) When the department approves the software and logic board of a machine, the division must require the use of a prescribed security seal process to guard against any unauthorized tampering or changes to the erasable programmable read only memory (EPROM) chip or chips, or future, similar such technology. Any repair, replacement, or adjustment to the machine's EPROM chips or similar such technology must be done in the presence of an employee of the division.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑940.** Location controllers and modems.

 (A) As part of the central computer monitoring system, each establishment operating machines must provide a location controller and modem meeting department requirements. Each location controller must be capable of receiving, storing, and transmitting to the central computer monitoring system all information received from and required of machines. Each location controller shall be capable of supporting at least five machines.

 (B) This section applies to those location controllers which participate in the system as separate hardware entities and any head of string location controller which meets the specifications of this section.

 (C) The cost for purchasing, leasing, and installing, the location controller is the responsibility of the licensed establishment in which the machines are located.

 (D) Each location controller must be able to perform the following functions:

 (1) communicate with machines in an on‑line environment;

 (2) store log entries of openings of machine game doors;

 (3) store log entries of openings of machine coin or currency doors;

 (4) authorize a machine to be taken off‑line from the location controller and store a log of this event;

 (5) disable a machine and store a log entry upon a game door open, and a coin door open;

 (6) store a log entry if machine is off‑line from the location controller;

 (7) store a log entry for machine tampering if the signal received from the machine is discontinuous or corrupted in such a manner as to constitute more than spurious noise in the system;

 (8) store a log entry of reenabling a machine that has been disabled;

 (9) log entries which include a VGMID for each machine and date/time stamp;

 (10) communicate to the central computer system the information which has been gathered from the machines and any log entries stored during the period using a protocol provided by the department or designated agent;

 (11) have sufficient storage capacity to maintain at least five days of data generated from the maximum playing sessions from the maximum number of associated machines linked to the location controller. The data must be stored immediately in a manner that allows, on demand, real time access by the central computer monitoring system. Access to data stored in the location controller must be restricted to authorized entry from the central computer monitoring system and other authorized inquiry only access that has been preapproved by the department;

 (12) have an internal clock;

 (13) be protected from unauthorized interference or tampering by any person or external device or force, such as to corrupt or alter data or corrupt or suspend communication signals or transmitted data from the machines or to the central computer monitoring system. This requirement extends to the location controller as well as its associated communication device, and cabling between the controller, the machines, and communication device;

 (14) be constructed of materials and protected in such a manner as to allow it to operate in suboptimal environments such as nonregulated temperature, dusty, tobacco‑smoke filled, and humid conditions. Locations using a location controller that is not constructed so as to operate in these environments and that fail to operate properly are not allowed to operate machines until the location controller is repaired or replaced so as to operate in such a suboptimal environment; and

 (15) be capable of validating tickets printed by a machine.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑950.** Standards for machines and related equipment.

 The department may set standards for machines, modems, location controllers, the central computer monitoring system, and associated equipment including, but not limited to, technical standards, hardware specifications, software specifications, and standards relating to multiplayer units. Applicants must meet these standards before any license may be issued. The department may revise technical standards as is necessary providing sufficient time for compliance by licensees. The technical standards established by the department must, to the extent possible, within the limitation of this chapter, maximize competition among manufacturers.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑960.** Burden of proof.

 The burden of proof that a machine, game, location controller, modem, or any part of a machine meets the required standards and requirements is the responsibility of the manufacturer or machine owner. The department may require the manufacturer or machine owner to obtain a certification from an approved laboratory indicating that the machine, game, location controller, modem, or any part of a machine meets the required standards and requirements. The cost of this certification is the responsibility of the manufacturer or machine owner. The department shall provide a list of approved laboratories. The department may also review a laboratory to determine if the laboratory should be added or removed from the department's list of approved laboratories. The department may contract with a testing laboratory to ensure and certify that a machine, game, location controller, modem, or any part of a machine meets the required standards and requirements. The department may also establish a state testing laboratory. Payment of the cost of testing by the laboratory is the responsibility of the manufacturer or machine owner. Approval of the machine by the department is prima facie evidence that the machine meets the required standards and requirements.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑970.** Notice to department prior to certain changes in machines.

 A machine owner shall notify the department before a machine is added, replaced, disconnected, or transferred to another establishment.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑980.** Notice to department prior to certain changes in location controllers.

 The licensed establishment or machine owner shall notify the department before a location controller is added, disconnected, or transferred to another establishment.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑990.** Machines to be disabled if location controller not polled for a specified period.

 (A) Each location controller must be programmed automatically to disable the play of all machines connected to the location controller, if the location controller has not been polled by the central computer monitoring system for the purpose of collecting meter and event data, for a period to be determined by the department, but not less than seventy‑two hours. The machine must be enabled when communication has been restored.

 (B) Whenever a machine is disabled during play of a game, the following must occur:

 (1) a message must appear on the screen warning the player that the machine is about to be disabled and the player must be informed that one minute remains to complete the game;

 (2) a count‑down timer must be displayed;

 (3) if the player completes the game, all payouts must be reported on a payout ticket and no other games are allowed to be played on that machine; and

 (4) if the player has not completed the game in the minute allotted, then the machine shall complete the hand according to the manufacturer's recommended play strategy, all payouts must be reported on a payout ticket, and the machine then disabled.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑1000.** VGMID required.

 Each machine placed in operation in this State must have affixed by the manufacturer a VGMID assigned by the department. Each machine owner shall notify the department in writing of the receipt of a machine. Manufacturers, distributors, and machine owners shall make machines and associated equipment available for inspection by the department or division. No machine may be transported out‑of‑state until the VGMID has been removed. No one other than an authorized department or division employee shall remove the VGMID. For qualifying machines already located in the State, the department shall assign, and the division shall affix, the VGMID. The VGMID must be programmed into the machine and serves as the machine's unique identifier for purposes of logging events and reporting play statistics.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑1010.** Records required for each machine.

 (A) Every machine owner shall maintain records for each machine showing the manufacturer's serial number; model and type of machine; the VGMID; the license number; the location's name, address, and telephone number; the machine operator; the date the machine entered this State; the date it entered the location; the date the machine went on‑line; and the bank account from which the taxes are withdrawn.

 (B) The machine owner shall maintain information relating to the payment of any money or compensation paid to any persons to operate the machine. Information required by this section must be available on demand for inspection by a representative of the department or division.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑1040.** Simulation of bingo or slot machines prohibited.

 A machine must not simulate bingo or a slot machine.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑1050.** Printing of tickets.

 Each machine must contain a single printing mechanism capable of printing an original ticket and retaining an exact copy which is subject to inspection by the department. Tickets must contain any information the department determines to be reasonable for the efficient administration of this chapter. The department shall provide manufacturers information as to the information needed on a ticket and the placement of information on the ticket.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑1060.** Machines and related equipment must be Year 2000 compliant.

 All machines, location controllers, and the central computer monitoring system selected by the department must perform correctly before, during, and after the year 2000, with no error in functioning or data caused by failure to correctly interpret and utilize data contained within date fields within the system.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑1070.** Department to disable machines under specified circumstances.

 (A) The department shall disable machines via the central computer monitoring system for the following reasons:

 (1) the establishment license or retail sales tax license at the establishment where the machines are located has been revoked or suspended;

 (2) the license of the machine has been revoked or suspended;

 (3) the machine owner's license has been revoked or suspended;

 (4) the machine operator's license has been revoked or suspended;

 (5) the establishment license, machine license, machine owner's license, or machine operator's license has expired;

 (6) the central computer monitoring system has registered a violation of system integrity by a machine. A machine disabled for this reason will be enabled again as soon as the problem has been resolved;

 (7) the machine owner or the machine operator has requested that the machine be disabled for any reason, such as relocation, upgrading, or repair; or

 (8) the bank account from which taxes are paid has insufficient funds to pay the entire tax due upon the due date.

 (B)(1) All persons who have notified the department of an ownership or lien interest in a machine shall be notified of a proceeding to revoke licenses that may result in disabling under this section. A licensee whose machine, and any part of the machine, is disabled for reasons in (A)(1), (A)(2), (A)(3), or (A)(4) shall not be licensed or permitted to operate in this State for five years from the date of revocation.

 (2) A machine, and any part of the machine, shall not operate in this State for five years from the date of revocation, if the machine is disabled for the reasons stated in:

 (a) subsection (A)(1) or (A)(4), if the machine owner and the person holding the establishment license are the same person; or

 (b) subsections (A)(2) or (A)(3).

 (C) All persons who have notified the department of an ownership interest in an establishment shall be notified of a proceeding to revoke licenses that may result in disabling under Section (A)(1). If machines are disabled at an establishment for the reason in (A)(1), the establishment may not operate, or allow the operation of, machines for five years from the date of the revocation or suspension.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.

**SECTION 12‑22‑1080.** Alternative technical provisions.

 The department, in its discretion, may approve, effective upon publication in the State Register, alternative technical provisions provided that the technology maintains the security, account information, and integrity of the machines, location controllers, and central computer monitoring system.

HISTORY: 1999 Act No. 125, Section 10.

Editor's Note

See Editor's Note at the beginning of this Chapter.