

# Senate File 510 - Enrolled

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SENATE FILE 510

AN ACT

CONCERNING ELECTRICAL AND MECHANICAL AMUSEMENT DEVICES AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 99B.1, subsections 12, 18, 19, and 23, Code 2007, are amended to read as follows:

12. "Distributor" means, for the purposes of sections 99B.10, 99B.10A, and 99B.10B, any person that owns electrical and mechanical amusement devices registered as provided in section 99B.10, subsection 4 1, paragraph "f", that are offered for use at more than a single location or premises.

18. "Manufacturer" means, for the purposes of sections 99B.10, 99B.10A, and 99B.10B, any person engaged in business in this state who originally produces an electrical and mechanical amusement device required to be registered under section 99B.10, subsection 4 1, paragraph "f", or individual components for use in such a device.

19. "Manufacturer's representative" means, for the purposes of sections 99B.10, 99B.10A, and 99B.10B, any person engaged in business in this state who promotes or sells electrical and mechanical amusement devices required to be registered under section 99B.10, subsection 4 1, paragraph "f", or individual components for use in such devices on behalf of a manufacturer of such devices or components.

23. "Owner" means, for the purposes of sections 99B.10A and 99B.10B, any person who owns an operable electrical and mechanical amusement device required to be registered under section 99B.10, subsection 4 1, paragraph "f".

Sec. 2. Section 99B.10, Code 2007, is amended to read as follows:

99B.10 ELECTRICAL AND MECHANICAL AMUSEMENT DEVICES ==  
PENALTIES.

1. It is lawful to own, possess, and offer for use by any person at any location an electrical or mechanical amusement device and the use of the electrical or mechanical amusement device shall not be deemed gambling, but only if all of the following are complied with:

~~1-~~ a. A prize of merchandise exceeding five dollars in value ~~or cash~~ shall not be awarded for use of the device. However, a mechanical or amusement device may be designed or adapted to award a prize or one or more free games or portions of games without payment of additional consideration by the participant.

~~2-~~ b. A prize of cash shall not be awarded for use of the device.

~~3-~~ c. An amusement device shall not be designed or adapted to cause or to enable a person to cause the release of free games or portions of games when designated as a potential award for use of the device, and shall not contain any meter or other measurement device for recording the number of free games or portions of games which are awarded.

~~4-~~ d. An amusement device shall not be designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than is ordinarily required to play the game.

~~5-~~ e. An amusement device required to be registered as provided in paragraph "f", shall not be placed into operation without first obtaining a new amusement device registration tag if electronic or mechanical components have been adapted, altered, or replaced and such adaptation, alteration, or replacement changes the operational characteristics of the amusement device, including but not limited to the game being changed.

~~6-~~ f. (1) Each electrical and mechanical amusement device in operation or distributed in this state that awards a prize, as provided in this section, where the outcome is not primarily determined by the skill or knowledge of the operator, is registered by the department as provided by this subsection lettered paragraph and is only located on premises

3 4 for which a class "A", class "B", class "C", special class  
3 5 "C", or class "D" liquor control license or class "B" or class  
3 6 "C" beer permit has been issued pursuant to chapter 123. For  
3 7 an organization that meets the requirements of section 99B.7,  
3 8 subsection 1, paragraph "m", no more than four, and for all  
3 9 other persons, no more than two electrical and mechanical  
3 10 amusement devices registered as provided by this ~~subsection~~  
3 11 ~~lettered paragraph~~ shall be permitted or offered for use in  
3 12 any single location or premises for which a class "A", class  
3 13 "B", class "C", or class "D" liquor control license or class  
3 14 "B" or class "C" beer permit has been issued pursuant to  
3 15 chapter 123.

3 16 (2) Each person owning an electrical and mechanical  
3 17 amusement device in this state shall obtain a registration tag  
3 18 for each electrical and mechanical amusement device owned that  
3 19 is required to be registered as provided in this ~~subsection~~  
3 20 ~~lettered paragraph~~. Upon receipt and approval of an  
3 21 application and a fee of twenty-five dollars for each device  
3 22 required to be registered, the department shall issue an  
3 23 annual registration tag ~~which tag shall be displayed as~~  
3 24 ~~required by rules adopted by the department. The application~~  
3 25 ~~shall be submitted on forms designated by the department and~~  
3 26 ~~contain the information required by rule of the department. A~~  
3 27 registration may be renewed annually upon submission of a  
3 28 registration application and payment of the annual  
3 29 registration fee and compliance with this chapter and the  
3 30 rules adopted pursuant to this chapter. ~~However, the~~

3 31 (3) The number of electrical and mechanical amusement  
3 32 devices registered by the department under this ~~subsection~~  
3 33 ~~lettered paragraph~~ shall not exceed the total number of  
3 34 devices registered by the department as of April 28, 2004. In  
3 35 addition, the department shall not initially register an  
4 1 electrical and mechanical amusement device that is required to  
4 2 be registered as provided in this ~~subsection~~ lettered  
4 3 paragraph to an owner for a location for which only a class  
4 4 "B" or class "C" beer permit has been issued pursuant to  
4 5 chapter 123 on or after April 28, 2004.

4 6 (4) A person owning or leasing an electrical and  
4 7 mechanical amusement device required to be registered under  
4 8 this ~~subsection~~ lettered paragraph shall only own or lease an  
4 9 electrical and mechanical amusement device that is required to  
4 10 be registered that has been purchased from a manufacturer,  
4 11 manufacturer's representative, or distributor registered with  
4 12 the department under section 99B.10A ~~and shall not advertise~~  
4 13 ~~or promote the availability of the device to the public as~~  
4 14 ~~anything other than an electrical and mechanical amusement~~  
4 15 ~~device pursuant to rules adopted by the department. In~~  
4 16 ~~addition, an~~

4 17 (5) An owner at a location for which only a class "B" or  
4 18 class "C" beer permit has been issued pursuant to chapter 123  
4 19 shall not relocate an amusement device registered as provided  
4 20 in this ~~subsection~~ lettered paragraph to a location other than  
4 21 the location of the device on April 28, 2004, and shall not  
4 22 transfer, assign, sell, or lease an amusement device  
4 23 registered as provided in this ~~subsection~~ lettered paragraph  
4 24 to another person for which only a class "B" or class "C" beer  
4 25 permit has been issued pursuant to chapter 123 after April 28,  
4 26 2004.

4 27 g. A person owning or leasing an electrical and mechanical  
4 28 amusement device required to be registered under paragraph  
4 29 "f", shall display the registration tag as required by rules  
4 30 adopted by the department.

4 31 h. A person owning or leasing an electrical and mechanical  
4 32 amusement device required to be registered under paragraph "f"  
4 33 shall not allow the electrical and mechanical amusement device  
4 34 to be operated or made available for operation with an expired  
4 35 registration.

5 1 i. A person owning or leasing an electrical and mechanical  
5 2 amusement device required to be registered under paragraph  
5 3 "f", or an employee of a person owning or leasing an  
5 4 electrical and mechanical amusement device required to be  
5 5 registered under paragraph "f", shall not advertise or promote  
5 6 the availability of the device to the public as anything other  
5 7 than an electrical and mechanical amusement device pursuant to  
5 8 rules adopted by the department.

5 9 j. A person owning or leasing an electrical and mechanical  
5 10 amusement device required to be registered under paragraph "f"  
5 11 shall not relocate and place into operation an amusement  
5 12 device in any location other than a location which has been  
5 13 issued an appropriate liquor control license in good standing  
5 14 and to which the device has been appropriately registered with

5 15 the department.

5 16 ~~5- k.~~ Any awards given for use of an amusement device  
5 17 shall only be redeemed on the premises where the device is  
5 18 located and only for merchandise sold in the normal course of  
5 19 business for the premises.

5 20 ~~6- l.~~ Each electrical or mechanical amusement device  
5 21 required to be registered as provided by this section shall  
5 22 ~~by January 1, 2006,~~ include on the device a counting mechanism  
5 23 which establishes the volume of business of the device. The  
5 24 department and the department of public safety shall have  
5 25 access to the information provided by the counting mechanism.

5 26 ~~7- m.~~ Each electrical or mechanical amusement device  
5 27 required to be registered as provided by this section at a  
5 28 location for which only a class "B" or class "C" beer permit  
5 29 has been issued pursuant to chapter 123 shall include on the  
5 30 device a security mechanism which prevents the device from  
5 31 being operated by a person until action is taken by the owner  
5 32 or owner's designee to allow the person to operate the device.

5 33 ~~8- n.~~ An electrical or mechanical amusement device  
5 34 required to be registered as provided in this section shall  
5 35 not be a gambling device, as defined in section 725.9, or a  
6 1 device that plays poker, blackjack, or keno.

6 2 ~~9- o.~~ Any other requirements as determined by the  
6 3 department by rule. Rules adopted pursuant to this ~~subsection~~  
6 4 ~~lettered paragraph~~ shall be formulated in consultation with  
6 5 affected state agencies and industry and consumer groups.

6 6 2. A person who violates any provision of subsection 1,  
6 7 except as specified in subsection 3, commits a serious

6 8 misdemeanor.

6 9 3. A person who violates any provision of subsection 1,  
6 10 paragraph "a", "e", "g", "h", "i", "j", "k", or "m", shall be  
6 11 subject to the following:

6 12 a. For a first offense under an applicable paragraph, the  
6 13 person commits a simple misdemeanor, punishable as a scheduled  
6 14 violation pursuant to section 805.8C, subsection 4, paragraph  
6 15 "b".

6 16 b. For a second or subsequent offense under the same  
6 17 applicable paragraph, the person commits a serious  
6 18 misdemeanor.

6 19 ~~4. It Notwithstanding any provision of this section to the~~  
6 20 ~~contrary, it is lawful for an individual other than an owner~~  
6 21 ~~or promoter of an amusement device to operate an amusement~~  
6 22 ~~device, whether or not the amusement device is owned,~~  
6 23 ~~possessed or offered for use in compliance with this section.~~

6 24 ~~The use of an amusement device which complies with this~~  
6 25 ~~section shall not be deemed gambling.~~

6 26 Sec. 3. Section 99B.10A, subsection 1, Code 2007, is  
6 27 amended to read as follows:

6 28 1. A person engaged in business in this state as a  
6 29 manufacturer, manufacturer's representative, distributor, or  
6 30 for-profit owner of electrical and mechanical amusement  
6 31 devices required to be registered as provided in section  
6 32 99B.10, subsection 4 ~~1,~~ paragraph "f", shall register with the  
6 33 department. Each person who registers with the department  
6 34 under this section shall pay an annual registration fee in an  
6 35 amount as provided in subsection 2. Registration shall be  
7 1 submitted on application forms designated by the department  
7 2 that shall contain the information required by the department  
7 3 by rule. The department shall adopt rules establishing the  
7 4 criteria for approval or denial of a registration application  
7 5 and providing for the submission of information to the  
7 6 department by a person registered pursuant to this section if  
7 7 information in the initial registration is changed, including  
7 8 discontinuing the business in this state.

7 9 Sec. 4. Section 99B.10A, subsection 2, paragraph c, Code  
7 10 2007, is amended to read as follows:

7 11 c. For an owner of no more than two electrical and  
7 12 mechanical amusement devices registered as provided in section  
7 13 99B.10, subsection 4 ~~1,~~ paragraph "f", at a single location or  
7 14 premises that is not an organization that meets the  
7 15 requirements of section 99B.7, subsection 1, paragraph "m",  
7 16 two thousand five hundred dollars.

7 17 Sec. 5. Section 99B.10B, subsection 1, Code 2007, is  
7 18 amended by striking the subsection and inserting in lieu  
7 19 thereof the following:

7 20 1. The department may deny, suspend, or revoke a  
7 21 registration issued pursuant to section 99B.10 or 99B.10A, if  
7 22 the department finds that an applicant, registrant, or an  
7 23 agent of a registrant violated or permitted a violation of a  
7 24 provision of section 99B.10, 99B.10A, or 99B.10C, or a  
7 25 departmental rule adopted pursuant to chapter 17A, or for any

7 26 other cause for which the director of the department would be  
7 27 or would have been justified in refusing to issue a  
7 28 registration, or upon the conviction of a person of a  
7 29 violation of this chapter or a rule adopted under this chapter  
7 30 which occurred on the premises where the registered amusement  
7 31 device is or is to be located. However, the denial,  
7 32 suspension, or revocation of a registration for one amusement  
7 33 device does not require, but may result in, the denial,  
7 34 suspension, or revocation of the registration for a different  
7 35 amusement device held by the same distributor or owner.

8 1 Sec. 6. Section 99B.10B, subsection 2, Code 2007, is  
8 2 amended to read as follows:

8 3 2. a. The department shall revoke a registration issued  
8 4 pursuant to section 99B.10 or 99B.10A, for a period of ten  
8 5 years ~~following at least ten days' written notice and~~  
~~8 6 opportunity for an evidentiary hearing, if a person awards~~  
8 7 commits an offense of awarding a cash prize in violation of  
8 8 section 99B.10, subsection 1, paragraph "b", pursuant to rules  
8 9 adopted by the department. A person whose registration is  
8 10 revoked under this subsection who is a person for which a  
8 11 class "A", class "B", class "C", special class "C", or class  
8 12 "D" liquor control license has been issued pursuant to chapter  
8 13 123 shall have the person's liquor control license suspended  
8 14 for a period of fourteen days in the same manner as provided  
8 15 in section 123.50, subsection 3, paragraph "a". ~~In addition,~~  
~~8 16 a~~ A person whose registration is revoked under this subsection  
8 17 who is a person for which only a class "B" or class "C" beer  
8 18 permit has been issued pursuant to chapter 123 shall have the  
8 19 person's class "B" or class "C" beer permit suspended and that  
8 20 person's sales tax permit suspended for a period of fourteen  
8 21 days in the same manner as provided in section 123.50,  
8 22 subsection 3, paragraph "a".

8 23 b. If a person owning or employed by an establishment  
8 24 having a class "A", class "B", class "C", special class "C",  
8 25 or class "D" liquor control license issued pursuant to chapter  
8 26 123 commits an offense of awarding a cash prize in violation  
8 27 of section 99B.10, subsection 1, paragraph "b", pursuant to  
8 28 rules adopted by the department, the liquor control license of  
8 29 the establishment shall be suspended for a period of fourteen  
8 30 days in the same manner as provided in section 123.50,  
8 31 subsection 3, paragraph "a". If a person owning or employed  
8 32 by an establishment having a class "B" or class "C" beer  
8 33 permit issued pursuant to chapter 123 awards a cash prize in  
8 34 violation of section 99B.10, subsection 1, paragraph "b",  
8 35 pursuant to rules adopted by the department, the beer permit  
9 1 of the establishment and the establishment's sales tax permit  
9 2 shall be suspended for a period of fourteen days in the same  
9 3 manner as provided in section 123.50, subsection 3, paragraph  
9 4 "a".

9 5 Sec. 7. Section 99B.10B, Code 2007, is amended by adding  
9 6 the following new subsection:

9 7 NEW SUBSECTION. 3. a. The process for denial,  
9 8 suspension, or revocation of a registration issued pursuant to  
9 9 section 99B.10 or 99B.10A, shall commence by delivering to the  
9 10 applicant or registrant by certified mail, return receipt  
9 11 requested, or by personal service a notice setting forth the  
9 12 proposed action and the particular reasons for such action.

9 13 b. (1) If a written request for a hearing is not received  
9 14 within thirty days after the mailing or service of the notice,  
9 15 the denial, suspension, or revocation of a registrant shall  
9 16 become effective pending a final determination by the  
9 17 department. The proposed action in the notice may be  
9 18 affirmed, modified, or set aside by the department in a  
9 19 written decision.

9 20 (2) If a request for a hearing is timely received by the  
9 21 department, the applicant or registrant shall be given an  
9 22 opportunity for a prompt and fair hearing before the  
9 23 department and the denial, suspension, or revocation shall be  
9 24 deemed suspended until the department makes a final  
9 25 determination. However, the director of the department may  
9 26 suspend a registration prior to a hearing if the director  
9 27 finds that the public integrity of the registered activity is  
9 28 compromised or there is a risk to public health, safety, or  
9 29 welfare. In addition, at any time during or prior to the  
9 30 hearing, the department may rescind the notice of the denial,  
9 31 suspension, or revocation upon being satisfied that the  
9 32 reasons for the denial, suspension, or revocation have been or  
9 33 will be removed. On the basis of any such hearing, the  
9 34 proposed action in the notice may be affirmed, modified, or  
9 35 set aside by the department in a written decision. The  
10 1 procedure governing hearings authorized by this paragraph

10 2 shall be in accordance with the rules promulgated by the  
10 3 department and chapter 17A.

10 4 c. A copy of the final decision of the department shall be  
10 5 sent by certified mail, return receipt requested, or served  
10 6 personally upon the applicant or registrant. The applicant or  
10 7 registrant may seek judicial review in accordance with the  
10 8 terms of the Iowa administrative procedure Act, chapter 17A.

10 9 d. If the department finds cause for denial of a  
10 10 registration issued pursuant to section 99B.10 or 99B.10A, the  
10 11 applicant shall not reapply for the same registration for a  
10 12 period of two years. If the department finds cause for a  
10 13 suspension or revocation, the registration shall be suspended  
10 14 or revoked for a period not to exceed two years.

10 15 Sec. 8. Section 99B.10C, subsections 2 and 3, Code 2007,  
10 16 are amended to read as follows:

10 17 2. A person owning or leasing an electrical and mechanical  
10 18 amusement device, or an employee of a person owning or leasing  
10 19 an electrical and mechanical amusement device, who knowingly  
10 20 allows a person under the age of twenty-one years to  
10 21 participate in the operation of an electrical and mechanical  
10 22 amusement device, or a person who knowingly participates in  
10 23 the operation of an electrical and mechanical amusement  
10 24 device, with a person under the age of twenty-one years, is  
10 25 guilty of a simple misdemeanor.

10 26 3. For purposes of this section, an electrical and  
10 27 mechanical amusement device means an electrical and mechanical  
10 28 amusement device required to be registered as provided in  
10 29 section 99B.10, subsection 4 1, paragraph "f".

10 30 Sec. 9. Section 805.8C, subsection 4, Code 2007, is  
10 31 amended to read as follows:

10 32 4. ELECTRICAL AND MECHANICAL AMUSEMENT DEVICE VIOLATIONS.

10 33 a. For violations of legal age for operating an electrical  
10 34 and mechanical amusement device required to be registered as  
10 35 provided in section 99B.10, subsection 4 1, paragraph "f",  
11 1 pursuant to section 99B.10C, subsection 1, the scheduled fine  
11 2 is two hundred fifty dollars. Failure to pay the fine by a  
11 3 person under the age of eighteen shall not result in the  
11 4 person being detained in a secure facility.

11 5 b. For first offense violations concerning electrical and  
11 6 mechanical amusement devices as provided in section 99B.10,  
11 7 subsection 3, the scheduled fine is two hundred fifty dollars.

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JOHN P. KIBBIE  
President of the Senate

\_\_\_\_\_  
PATRICK J. MURPHY  
Speaker of the House

I hereby certify that this bill originated in the Senate and  
is known as Senate File 510, Eighty-second General Assembly.

\_\_\_\_\_  
MICHAEL E. MARSHALL  
Secretary of the Senate

Approved \_\_\_\_\_, 2007

\_\_\_\_\_  
CHESTER J. CULVER  
Governor