

COUNTY REGULATION OF BUSINESSES AND OCCUPATIONS

SUBCHAPTER A. CERTAIN OUTDOOR BUSINESSES

Sec. 234.001. DEFINITIONS.

In this subchapter:

(1) "Automotive wrecking and salvage yard" means a business, other than a business classified as a salvage pool operator under Chapter 2302, Occupations Code, that stores three or more wrecked vehicles outdoors for the purpose of:

(A) selling the vehicles whole; or

(B) dismantling or otherwise wrecking the vehicles to remove parts for sale or for use in an automotive repair or rebuilding business.

(2) "Demolition business" means a business that demolishes structures, including houses and other buildings, in order to salvage building materials and that stores those materials before disposing of them.

(3) "Flea market" means an outdoor market for selling secondhand articles or antiques.

(4) "Junkyard" means a business that stores, buys, or sells materials that have been discarded or sold at a nominal price by a previous owner and that keeps all or part of the materials outdoors until disposing of them.

(5) "Outdoor resale business" means a business that sells used merchandise, other than automobiles, logging equipment, or other agricultural equipment, and stores or displays the merchandise outdoors.

(6) "Recycling business" means a business that is primarily engaged in:

(A) converting ferrous or nonferrous metals or other materials into raw material products having prepared grades and having an existing or potential economic value;

(B) using raw material products of that kind in the production of new products; or

(C) obtaining or storing ferrous or nonferrous metals or other materials for a purpose described by Paragraph (A) or (B).

Sec. 234.002. AUTHORITY TO REGULATE; ADOPTION OF RULE.

(a) The commissioners court of a county by order may establish visual aesthetic standards for automotive wrecking and salvage yards, junkyards, recycling businesses, flea markets, demolition businesses, and outdoor resale businesses in the unincorporated area of the county.

(b) The commissioners court may not include in an order adopted under this section a screening requirement for an automotive wrecking and salvage yard or a junkyard that is less restrictive than the screening requirement under Chapter 396, Transportation Code.

(c) An order adopted under this section must provide a reasonable period of time not to exceed 12 months for a business operating on the effective date of the order to comply with the visual aesthetic standards.

Sec. 234.003. EXCEPTIONS.

(a) A commissioners court may not regulate under this subchapter farm machinery owned or operated by the person on whose property the machinery is located and kept on that property for purposes other than sale.

(b) A business subject to a screening requirement under Subchapter E of Chapter 391, Chapter 396, or Chapter 397, Transportation Code, that was in compliance with that screening requirement on August 26, 1991, is exempt from a screening requirement adopted under this subchapter.

Sec. 234.004. CIVIL PENALTY.

(a) The appropriate attorney representing the county in civil cases may file a civil action to recover a civil penalty from a business that violates a visual aesthetic standard established under this subchapter. The penalty may not exceed \$50 each day for the first 10 days of the violation, \$100 each day for the next 10 days, \$250 each day for the next 10 days, and \$1,000 for each day thereafter. In determining the amount of the penalty, the court shall consider the seriousness of the violation.

(b) A penalty recovered under this section shall be deposited in the general fund of the county.

GAME ROOMS

Sec. 234.131. DEFINITIONS.

In this subchapter:

(1) "Amusement redemption machine" means any electronic, electromechanical, or mechanical contrivance designed, made, and adopted for bona fide amusement purposes that rewards the player exclusively with noncash merchandise, prizes, toys, or novelties, or a representation of value redeemable for those items, with a wholesale value available from a single play of the game or device in an amount not more than 10 times the amount charged to play the game or device once or \$5, whichever amount is less.

(2) "Game room" means a for-profit business located in a building or place that contains six or more:

(A) amusement redemption machines; or

(B) electronic, electromechanical, or mechanical contrivances that, for consideration, afford a player the opportunity to obtain a prize or thing of value, the award of which is determined solely or partially by chance, regardless of whether the contrivance is designed, made, or adopted solely for bona fide amusement purposes.

(3) "Game room owner" means a person who:

(A) has an ownership interest in, or receives the profits from, a game room or an amusement redemption machine located in a game room;

(B) is a partner, director, or officer of a business, including a company or corporation, that has an ownership interest in a game room or in an amusement redemption machine located in a game room;

(C) is a shareholder that holds more than 10 percent of the outstanding shares of a business, including a company or corporation, that has an ownership interest in a game room or in an amusement redemption machine located in a game room;

(D) has been issued by the county clerk an assumed name certificate for a business that owns a game room or an amusement redemption machine located in a game room;

(E) signs a lease for a game room;

(F) opens an account for utilities for a game room;

(G) receives a certificate of occupancy or certificate of compliance for a game room;

(H) pays for advertising for a game room; or

(I) signs an alarm permit for a game room.

(4) "Operator" means an individual who:

(A) operates a cash register, cash drawer, or other depository on the premises of a game room or of a business where the money earned or the records of credit card transactions or other credit transactions generated in any manner by the operation of a game room or activities conducted in a game room are kept;

(B) displays, delivers, or provides to a customer of a game room merchandise, goods, entertainment, or other services offered on the premises of a game room;

(C) takes orders from a customer of a game room for merchandise, goods, entertainment, or other services offered on the premises of a game room;

(D) acts as a door attendant to regulate entry of customers or other persons into a game room; or

(E) supervises or manages other persons at a game room in the performance of an activity listed in this subdivision.

Sec. 234.133. AUTHORITY TO REGULATE.

To promote the public health, safety, and welfare, the commissioners court of a county may regulate the operation of game rooms and may:

(1) restrict the location of game rooms to specified areas of the county, including the unincorporated area of the county;

(2) prohibit a game room location within a certain distance, prescribed by the commissioners court, of a school, regular place of religious worship, or residential neighborhood; or

(3) restrict the number of game rooms that may operate in a specified area of the county.

Sec. 234.134. LICENSES OR PERMITS.

(a) A county may require that an owner or operator of a game room obtain a license or permit or renew a license or permit on a periodic basis to own or operate a game room in the county. An application for a license or permit must be made in accordance with regulations adopted by the county.

(b) Regulations adopted under this section may provide for the denial, suspension, or revocation of a license or permit.

(c) A district court has jurisdiction of a suit that arises from the denial, suspension, or revocation of a license or other permit by a county.

Sec. 234.135. FEES.

A county may impose a fee not to exceed \$1,000 on an applicant for a license or permit or for the renewal of the license or permit required under this subchapter. The fee must be based on the cost of processing the application and investigating the applicant.

Sec. 234.136. INSPECTION.

(a) A peace officer or county employee may inspect a business in the county to determine the number of amusement redemption machines or machines described by Section 234.131(2)(B) subject to regulation under this subchapter that are located on the premises of the business.

(b) A peace officer or county employee may inspect any business in which six or more amusement redemption machines or machines described by Section 234.131(2)(B) are located to determine whether the business is in compliance with this subchapter or regulations adopted under this subchapter.

(c) A person violates this subchapter if the person fails to allow a peace officer or county employee to conduct an inspection under this section.

Sec. 234.137. INJUNCTION; CIVIL PENALTY.

(a) A county may sue in district court for an injunction to prohibit the violation or threatened violation of this subchapter or a regulation adopted under Section 234.133.

(b) A person who violates this subchapter or a regulation adopted under Section 234.133 is liable to the county for a civil penalty of not more than \$10,000 for each violation. Each day a violation continues is considered a separate violation for purposes of assessing the civil penalty under this subsection. A county may bring suit in district court to recover a civil penalty authorized by this subsection.

(c) The county is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, under this section, including reasonable attorney's fees, court costs, and investigatory costs.

Sec. 234.138. CRIMINAL PENALTY.

(a) A person commits an offense if the person intentionally or knowingly operates a game room in violation of a regulation adopted under Section 234.133.

(b) An offense under this section is a Class A misdemeanor.

Sec. 234.139. CUMULATIVE EFFECT.

Authority under this subchapter is cumulative of other authority that a county has to regulate game rooms and does not limit that authority.

Sec. 234.140. EFFECT ON OTHER LAWS.

(a) This subchapter does not legalize any activity prohibited under the Penal Code or other state law.

(b) A person's compliance with this subchapter, including operating a game room under a license or permit issued under this chapter, is not a defense to prosecution for an offense under Chapter 47, Penal Code.

(c) A person who is subject to prosecution under Section 234.138 and any other law may be prosecuted under either or both laws.