

ORDINANCE NO. 15706

FILE OF CITY COUNCIL

BILL NO. 36 - 2021

APRIL 21, 2021

AN ORDINANCE

Amending the Part Three Business Regulation and Taxation Code, Title III, Taxes, by repealing Article 339 mechanical amusement devices tax in its entirety.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION ONE: That Article 339 Mechanical Amusement Devices Tax be repealed in its entirety:

**ARTICLE 339
MECHANICAL AMUSEMENT DEVICES TAX**

- 339.01 Tax Imposed; Rates
- 339.02 Gambling Prohibited
- 339.03 Registration Required; Payment of Tax
- 339.04 Certificate Issuance; Display
- 339.05 Duties of Fiscal Management
- 339.06 Penalty for Late Payment
- 339.07 Collection of Delinquent Taxes
- 339.98 Severability
- 339.99 Penalty

EDITOR'S NOTE: The Local Tax Enabling Act (Act 511, approved December 31, 1965, as amended) provides in Section 4 that every tax imposed under authority of the Act shall continue on either a calendar or fiscal year basis, without annual re-enactment unless the rate of the tax is subsequently changed. Council by Ordinance No. 11854, passed December 15, 1970, and pursuant to Act 511, has enacted the mechanical amusement devices tax for the 1971 calendar year to continue thereafter unless amended or repealed.

339.01 TAX IMPOSED; RATES

There is hereby imposed a tax at the rates hereinafter specified on all persons, firms, corporations or associations using or permitting the use for profit in the City of Allentown, of any machines or device for amusement, entertainment or rendition of music, which is operated by the insertion of a coin or token representing such coin.

A. For each machine or device played with pins and balls, or either of them as well as for all other machines or devices by which amusement is afforded or furnished a tax of Fifty (\$50.00) Dollars.

B. For each arcade devoted to the operation of coin operated amusement machines exceeding ten (10) in number, a tax of Three Hundred and Fifty (\$350.00) Dollars.

C. For each machine by which music is afforded or furnished a tax of Fifteen (\$15.00) Dollars. (12415 §1 4/16/80)

339.02 GAMBLING PROHIBITED

The imposition of this tax shall not be construed to legalize or permit the operation of any machines or devices whatsoever, directly or indirectly, for the purpose of gambling. (11854 §2 12/15/70)

339.03 REGISTRATION REQUIRED; PAYMENT OF TAX

Every person, firm, corporation, or association owning, having or possessing any such machine or device now used or permitted to be used for profit shall, on or before May 16, 1980 (February 1 for years thereafter) register with Fiscal Management the said machine or device and shall, at the time of such registration, pay the tax thereon for the year 1980. Any person, firm, corporation or association who places in use any such machine or device after April 1 of any current tax year shall before such use register the said machine or device and pay the tax for the current year, prorated for the balance of the year by the number of quarters or portions or quarters therein remaining. (12415 §2 4/16/80)

339.04 CERTIFICATE ISSUANCE; DISPLAY

Each application for the registration of any such machine or device shall describe the location thereof at which the same is placed or permitted in use and Fiscal Management shall at the time of payment of the tax therefore issue a certificate for the calendar year for which the tax has been paid, which certificate shall be prominently displayed at the said location. It shall be unlawful to use or permit to be used for profit any such machine or device, at any location, for which the tax has not been paid, or for which a certificate is not displayed, and no certificate shall be displayed for any machine or device beyond the year for which it was so issued. (12415 §3 4/16/80)

339.05 DUTIES OF FISCAL MANAGEMENT

The Fiscal Management is hereby authorized and directed to make and keep such records, prepare such records, prepare such forms, and take such other measures as may be necessary or convenient to carry this Article into effect. (12415 §4 4/16/80)

339.06 PENALTY FOR LATE PAYMENT

If the tax hereby imposed shall not be paid on or before the date fixed for the payment thereof, there shall be added a penalty of five (5%) percent thereof, and the delinquent tax shall bear interest at the rate of one-half of one (½%) percent for each month or fraction thereof after the date herein required for payment of the same. (11854 §6 12/15/70)

339.07 COLLECTION OF DELINQUENT TAXES

Fiscal Management shall proceed for the collection of any delinquent taxes arising hereunder, together with penalties, costs and interest thereon, and shall take such action for that purpose as may be authorized by law. (12415 §5 4/16/80)

339.98 SEVERABILITY

The provisions of this Article are severable and, if any of its provisions or exceptions shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this Article. It is declared to be the legislative intent that this Article would have been adopted if such illegal, invalid or unconstitutional provisions or exemptions had not been included herein.

339.99 PENALTY

Any person, firm, corporation or association violating any of the provisions of this Article or failing to pay the tax on any machine or device and registering the same with Fiscal Management, or permitting the said machine or device to be used without displaying the required certificate shall, upon summary conviction before any District Justice in the County of Lehigh, be sentenced to pay a fine not to exceed the sum of Five Hundred (\$500.00) Dollars for any one offense, recoverable with costs and restitution, or imprisonment not exceeding ninety (90) days, if the amount of said fine and costs shall not be paid. Each day's violation shall constitute a separate offense. (12415 §6 4/6/80; 14402 §6 7/28/06)

SECTION TWO: That this Ordinance will take effect ten (10) days after final passage.

SECTION THREE: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

	Yea	Nay
Candida Affa	X	
Ce-Ce Gerlach	X	
Daryl Hendricks	X	
Cynthia Mota	X	
Joshua Siegel	X	
Ed Zucal	X	
Julio A. Guridy, Pres.	X	
TOTAL	7	0

I hereby certify that the foregoing Ordinance was passed by City Council on May 5, 2021 and signed by the Mayor on May 6, 2021.

Michael P. Hall

CITY CLERK

- **What Department or bureau is Bill originating from? Where did the initiative for the bill originate?**

Department of Finance

- **Summary and Facts of the Bill**

The bill seeks to repeal the imposition of a Mechanical Amusement Device Tax ("MAD Tax"), levied under the grant of local taxing authority under the Local Tax Enabling Act in Article 339 of the City's Business Regulation and Taxation Code.

- **Purpose – Please include the following in your explanation:**
 - **What does the Bill do – what are the specific goals/tasks the bill seek to accomplish**
 - **What are the Benefits of doing this/Down-side of doing this**
 - **How does this Bill related to the City's Vision/Mission/Priorities**

The MAD Tax was enacted in 1970. The tax is levied in the amount of \$50.00 per coin operated amusement device employed at any business location, such as a pinball machine, and \$15.00 per music device, such as a jukebox.

At the height of its revenue production in the late 1990's and early 2000's, the tax generated about \$30,000 for the City. In 2015, the City collected about \$12,000. In 2021, we project revenue collections of about \$6,000, an 80% decline from the peak revenue and 50% decline from a half decade ago.

The assessment, billing, collection, maintenance, accounting, reporting, customer service, labor, postage and other overhead costs associated with levying this tax already costs the City thousands of dollars annually.

When the City moves from Eden Licensing to Energov (both Tyler products), slated for 2022, the General Fund would assume development costs for the tax to be housed in a new software that exceed the annual revenue of the tax.

The tax, and a licensing requirement that comes with it, has a base of only 55 businesses within the City, 15 of which are not for profit Fire Companies, VFW's, Social Clubs and other associations.

Coin operated amusement devices are on the decline. The tax base is already dissipating. Repealing this tax is a cost efficiency for the City and saves development costs in the Energov process and other maintenance and support costs. Repeal would also have the effect of reducing the tax compliance burden on local restaurants and social clubs, who are already struggling.

- **Financial Impact – Please include the following in your explanation:**
 - **Cost (Initial and ongoing)**
 - **Benefits (initial and ongoing)**

The financial impact is \$5,000 to \$6,000 dollars annually, and dropping, in trade for administrative and development costs that are projected to exceed the annual amount of the tax.

- **Funding Sources – Please include the following in your explanation:**
 - If transferring funds, please make sure bill gives specific accounts; if appropriating funds from a grant list the agency awarding the grant.

None

- **Priority status/Deadlines, if any**

The repeal should be effective for the 2022 tax year.

- **Why should Council unanimously support this bill?**

The tax no longer makes sense. It was never a particularly valuable revenue source and it is expensive to administer compared to its returns. We should repeal it before we incur costly development and support costs from Tyler Technologies.