

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1894

Session of
1987

INTRODUCED BY CALTAGIRONE, PUNT, TRELLO, JAROLIN, KOSINSKI,
CLARK AND CAWLEY, OCTOBER 27, 1987

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE,
OCTOBER 27, 1987

AN ACT

1 Providing for gaming machines and small games of chance;
2 establishing the Gaming Commission and providing for its
3 powers and duties; providing for enforcement, the licensing
4 of manufacturers, distributors, vendors and operators, the
5 operation of gaming machines and small games of chance;
6 providing for the disposition of revenues, for local option,
7 and for the preemption of certain local taxes; and providing
8 penalties.

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11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Short title.

14 This act shall be known and may be cited as the Licensee
15 Gaming Law.

16 Section 2. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Commission." The Gaming Commission.

21 "Distributor." An individual, partnership or corporation,
22 approved and licensed by the commission, that buys, sells or
23 leases gaming machines.

24 "Gaming machines." Coin-operated electronic devices upon
25 which a microprocessor-controlled video game utilizes the
26 reason, skill or element of chance of the person operating the
27 device, who may receive cash, merchandise or something of value
28 as a reward.

29 "Manufacturer." An individual, partnership or corporation,
30 approved and licensed by the commission, that manufactures,

1 assembles or repairs video gaming machines.

2 "Municipality." A city, borough, incorporated town or
3 township.

4 "Operator." An individual, partnership or corporation who or
5 which has been issued a restaurant, club, caterer club, hotel or
6 eating place license pursuant to the act of April 12, 1951
7 (P.L.90, No.21), known as the Liquor Code.

8 "Small games of chance." Any device approved by the
9 commission and used for gaming purposes whereby money is placed
10 at risk for the possible return of merchandise, money or
11 anything of value. Such devices shall include, but not be
12 limited to, punch boards, pull-tab devices, half-and-half
13 tickets or gaming pools.

14 "Vendor." An individual, partnership or corporation,
15 approved and licensed by the commission, that sells, leases,
16 repairs and maintains video gaming machines.

17 Section 3. Gaming Commission.

18 (a) Establishment and composition.--There is hereby
19 established an independent commission to be known as the Gaming
20 Commission. The commission shall consist of five members
21 appointed as follows:

22 (1) One member appointed by the Governor.

23 (2) Two members appointed by the President pro tempore
24 of the Senate.

25 (3) Two members appointed by the Speaker of the House of
26 Representatives.

27 (b) Terms.--The terms of members shall be six years and
28 until their successors are appointed. In case of a vacancy, the
29 same appointing authority shall appoint a member to fulfill the
30 unexpired term.

(c) Initial appointments.--Initial appointments to the commission shall be as follows:

(1) The Governor shall appoint one member to a six-year term.

(2) The President pro tempore of the Senate shall appoint one member for a term of three years and one member for a term of five years.

(3) The Speaker of the House shall appoint one member for a term of two years and one member for a term of four years.

Section 4. Qualifications of members.

(a) Citizenship, age and residency.--Each member of the commission shall be a citizen of the United States and a resident of this Commonwealth, and shall have been a qualified elector in this Commonwealth for a period of three years preceding the member's appointment, and must be no less than 30 years of age. No more than three members of the commission shall be registered and enrolled in the same political party.

(b) Public office.--No member of the commission may hold any elected or appointed public office under the laws of this Commonwealth or the United States or seek elected public office of any kind within this Commonwealth or the United States.

Section 5. Chairman, quorum, etc.

(a) Chairman.--The chairman of the commission shall be elected by the members. The chairman shall preside at all meetings or a member designated by the chairman shall preside in the chairman's absence.

(b) Quorum.--Three members of the commission shall constitute a quorum and any action or order of the commission shall require the approval of at least three members.

1 (c) Bond.--All members of the commission shall file with the
2 State Treasurer a bond in the form and amount determined by the
3 Executive Board.

4 (d) Salaries and expenses.--The salary and expenses of the
5 commission members shall be determined by the Executive Board.

6 (e) Executive director.--The commission may appoint an
7 executive director to hold office at its pleasure. The executive
8 director shall have such powers and duties as the commission may
9 prescribe. The executive director shall have the authority to
10 designate a deputy director to perform the duties of the
11 executive director during the director's absence. The executive
12 director shall receive compensation in an amount approved by the
13 Executive Board.

14 Section 6. Powers and duties.

15 The commission shall have the following powers and duties:

16 (1) To issue licenses in accordance with this act.

17 (2) To enforce this act and any rules and regulations
18 promulgated under this act.

19 (3) To promulgate rules and regulations in the manner
20 provided by law.

21 (4) To appoint such employees and enforcement agents as
22 it deems necessary and fix the compensation and define the
23 powers and duties, the terms and conditions of employment and
24 the standards of conduct of the employees and enforcement
25 agents.

26 (5) To approve the gaming machines and the small games
27 of chance to be operated under this act.

28 Section 7. Enforcement.

29 (a) Powers.--Employees of the commission designated as
30 enforcement agents shall investigate the background of every

1 license applicant to the extent necessary to comply with this
2 act. No investigation shall be undertaken prior to the
3 submission of an application for a license by an applicant.

4 (b) Authority.--Enforcement agents shall have police powers
5 and authority throughout this Commonwealth with respect to the
6 enforcement of this act, including the power and authority to
7 arrest, on view or under warrant, any person violating this act.

8 (c) Investigation and report.--Enforcement agents may
9 investigate any alleged illegal activities concerning this act.
10 Findings shall be reported to the commission which shall report
11 any suspected violations to the district attorney of the
12 appropriate county for disposition.

13 Section 8. Licenses.

14 (a) Qualifications.--To qualify for a license under this
15 act, an applicant shall meet all of the following
16 qualifications:

17 (1) If the applicant is an individual:

18 (i) The applicant is honest, has good character and
19 integrity and in all respects is qualified and has
20 adequate financing from suitable sources.

21 (ii) The applicant is a citizen of the United States
22 and has been a resident of this Commonwealth for at least
23 two years prior to the application.

24 (2) If the applicant is a partnership, all partners must
25 qualify as individuals under paragraph 1.

26 (3) If the applicant is a corporation applying for a
27 license as an operator, vendor or distributor:

28 (i) The corporation has been registered as a
29 Pennsylvania corporation for at least one year prior to
30 the date of this application.

(ii) At least 50% of its directors have been Pennsylvania residents for at least one year prior to the date of application.

(iii) All officers meet the qualifications for individuals under paragraph (1).

(iv) All stockholders are individuals.

(b) Cause for disapproval.--The commission may not disapprove any application or limit, condition or restrict any license except for reasonable cause.

(c) Issuance.--The commission, upon application and payment of the proper fee by the applicant, shall issue to a qualified applicant a license of the type for which the application was made. No more than one class of gaming license shall be issued to any one applicant.

(d) Meaning.--Any person aggrieved by an action of the commission in disapproving or limiting a license application shall have the right to a hearing before the commission. Hearings before the commission and appeals from orders of the commission shall be conducted and taken in the manner provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

Section 9. License fees.

(a) Manufacturers.--The manufacturers' annual license fee shall be \$1,000.

(b) Vendors.--The vendors' annual license fee shall be \$50,000. Each approved machine shall be licensed and validated with a tax stamp with a fee of \$1,000 per machine. The vendor's license fee shall constitute authority for licensing of 50 gaming machines. Each additional machine sold or leased by the vendor will require an additional \$1,000 license and a validated

1 tax stamp.

2 (c) Operators.--The operators' annual license fee shall be
3 \$1,000 to conduct small games of chance and operate gaming
4 machines on a licensed premise.

5 Section 10. Distribution of gaming machines and small games of
6 chance.

7 (a) Gaming machines.--The number of gaming machines to be
8 distributed to each operator's premises shall be no more than
9 ten.

10 (b) Purchase of small games of chance.--Operators shall
11 purchase games of chance from an authorized agent appointed by
12 the commission. The cost of games of chance shall include the
13 manufacturing and purchasing cost of approved games, plus a
14 profit included as revenue to the Commonwealth, as determined by
15 the commission.

16 (c) Small games of chance.--The description and number of
17 small games of chance to be approved shall be determined by the
18 commission and published as a rule or regulation.

19 Section 11. Winning percentage and gaming machine
20 accountability.

21 (a) Payoff.--The percentage of payoff to the player of
22 gaming machines shall be no less than 80%.

23 (b) Accounting device.--All gaming machines shall have
24 electronic accounting devices to verify revenue due the
25 Commonwealth.

26 Section 12. Minors.

27 (a) Penalty.--A person who is under 21 years of age and
28 plays, or attempts to play, a small game of chance or gaming
29 machine commits a misdemeanor of the third degree and shall,
30 upon conviction, be sentenced to pay a fine of not less than

1 \$200 nor more than \$500.

2 (b) Licensee.--A licensee who willfully permits a person
3 under 21 years of age to play a small game of chance or gaming
4 machine commits a misdemeanor of the third degree and shall,
5 upon conviction, be sentenced to pay a fine of not less than
6 \$200 nor more than \$500.

7 (c) Defense.--It shall be a defense to a prosecution brought
8 under subsection (b) that the licensee or his employee has
9 obtained a written verification of the age of the person
10 participating in the small game of chance or gaming machine on a
11 form prescribed by the commission.

12 Section 13. Violations.

13 The commission shall investigate alleged violations of this
14 act and may suspend or revoke a license for a violation of this
15 act. No license shall be suspended or revoked until a hearing
16 before the commission is completed. The commission may assess a
17 civil penalty for a violation of this act or rules or
18 regulations adopted under this act, not to exceed \$1,000 for the
19 first offense or \$2,000 for each subsequent violation.

20 Section 14. Revenues and disposition.

21 (a) Application of act.--The provisions of this act relating
22 to revenues and license fees shall apply equally to all
23 operators, whether profit or nonprofit.

24 (b) Net revenues.--The net revenues derived from licensing
25 and collection of fees relative to the operation of gaming
26 machines and small games of chance shall be transmitted to the
27 State Treasurer and distributed yearly in accordance with
28 subsection (c).

29 (c) Manner of distribution.--The net profit derived from a
30 video poker machine shall be distributed as follows:

1 (1) Thirty-five percent to the Commonwealth.

2 (2) Thirty-five percent to the licensed establishment
3 where the machine is located.

4 (3) Ten percent to municipality where machines are
5 located.

6 (4) Ten percent to county where machines are located.

7 (5) Ten percent to senior citizen programs.

8 (d) Collection.--Net revenues shall be collected by the
9 operator for each licensed video poker machine.

10 (e) Reports.--The operator shall make a report to the county
11 treasurer and the Commonwealth each month with the following
12 information:

13 (1) Serial number of each video poker machine electronic
14 accounting device.

15 (2) Name and address of the premises where the machine
16 is located.

17 (3) Computer printout of the net revenue of each machine
18 taken directly from the electronic accounting device.

19 (f) Local government revenues.--The operator of each video
20 poker machine shall send a monthly report of machine net
21 revenues to the Department of Revenue and to the treasurer of
22 the county where the machines are located for distribution.

23 Section 15. Exemption from gambling laws.

24 (a) Licensees.--No licensee shall be prosecuted under the
25 criminal laws of this Commonwealth relating to gambling for any
26 activity authorized by this act.

27 (b) Machines.--Gaming machines and small games of chance
28 approved by the commission shall be exempt from the criminal
29 laws of this Commonwealth relating to the manufacture, transfer
30 or possession of gaming machines and small games of chance.

1 Section 16. Local option.

2 (a) Placement on ballot.--A majority of the voters of a
3 city, incorporated town, township or borough shall have the
4 option to reject the placement of video poker machines in its
5 respective political subdivision within 180 days from the
6 effective date of this act if the rejection is in conformity
7 with the act of June 3, 1937 (P.L.1333, No.320), known as the
8 Pennsylvania Election Code. The question shall be placed upon
9 the ballot of that political subdivision for the next regularly
10 scheduled election as a "no" question if 25% of the registered
11 voters of that political subdivision sign a petition requesting
12 that the question be put on the ballot. The results shall be
13 transmitted to the Secretary of the Commonwealth, who shall have
14 the duty of informing the department of the result.

15 (b) Special election.--No special election shall be held to
16 answer this question. However, if a special election is held to
17 decide other matters, this question may properly be placed on
18 that ballot along with the other matters to be decided.

19 Section 17. Preemption of local taxes and license fees.

20 All gaming machines for which the appropriate license fee has
21 been paid to the commission shall be exempt from any taxes
22 levied under the authority of the act of December 31, 1965
23 (P.L.1257, No.511), known as The Local Tax Enabling Act, or the
24 act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as
25 the Sterling Act.

26 Section 18. Exemption from Federal regulation.

27 The General Assembly declares that the Commonwealth is exempt
28 from section 2 of the Gambling Devices Transportation Act (64
29 Stat. 1134, 15 U.S.C. § 1172) and that all shipments of approved
30 gaming machines into this Commonwealth in compliance with

1 sections 3 and 4 of the Gambling Devices Transportation Act
2 shall be deemed legal shipments into this Commonwealth.
3 Section 19. Effective date.
4 This act shall take effect in 60 days.