

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1553

Session of
1983

INTRODUCED BY CLARK, TRELLO, VAN HORNE, REBER, LETTERMAN, OLASZ,
DeLUCA, KASUNIC, PETRARCA, DOMBROWSKI, SEVENTY, DUFFY,
MISCEVICH, HALUSKA, COHEN, CAPPABIANCA, LASHINGER, WACHOB,
TIGUE, STEWART, PETRONE, KUKOVICH, CAWLEY, WOZNIAK AND LUCYK,
OCTOBER 17, 1983

REFERRED TO COMMITTEE ON STATE GOVERNMENT, OCTOBER 17, 1983

AN ACT

1 Providing for licensing, taxing and placement of video poker
2 machines in this Commonwealth; creating a Video Poker Machine
3 Control Commission; providing powers and duties for this
4 commission; providing for local option; and providing for
5 distribution of revenues.

6 TABLE OF CONTENTS

- 7 Section 1. Short title.
- 8 Section 2. Definitions.
- 9 Section 3. Video Poker Machine Control Commission.
- 10 Section 4. Qualifications.
- 11 Section 5. Chairman of commission and quorum.
- 12 Section 6. Director.
- 13 Section 7. Bonds.
- 14 Section 8. Powers and duties of commission.
- 15 Section 9. Use of enforcement agents.
- 16 Section 10. Unlawful use by minors.
- 17 Section 11. Local option.
- 18 Section 12. Authority to license.

1 Section 13. Authority to tax.

2 Section 14. Distribution of tax.

3 Section 15. Creation of account.

4 Section 16. Preemption of local taxes and license fees.

5 Section 17. Exemption from State gambling laws.

6 Section 18. Exemption from Federal regulation.

7 Section 19. Effective date.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Video Poker
12 Machine Law.

13 Section 2. Definitions.

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

17 "Associations." Volunteer fire companies, ambulance
18 associations or religious, charitable, civic, county fair or
19 agricultural associations.

20 "Clubs." Nonprofit establishments which have a valid
21 Pennsylvania club liquor license. The term clubs shall include
22 the holders of special occasion permits.

23 "Commission." The Video Poker Machine Control Commission
24 created by this law.

25 "Distributor." An individual, partnership or corporation
26 that buys, sells or leases video poker machines, other than an
27 operator.

28 "Locations." Commercial establishments, such as restaurants,
29 bars, taverns, hotels and clubs, which have a valid Pennsylvania
30 liquor license.

1 "Manufacturer." An individual, partnership or corporation
2 that manufactures or assembles video poker machines.

3 "Net machine revenues." Those net profits remaining from
4 video poker machines after all winning cash or prizes have been
5 paid.

6 "Operator." An individual, partnership or corporation that
7 owns, services and maintains video poker machines for placing in
8 various State-approved places.

9 "Participating political subdivision." Any city, town,
10 township or borough where video poker machines are in use in
11 accordance with this act.

12 "Person." Includes a corporation, partnership and
13 association, as well as a natural person.

14 "Video poker machines." A device or machine which, upon
15 insertion of a coin, is available to play or simulate the play
16 of the game of poker, utilizing a video display and
17 microprocessors and in which, whether by the skill of the player
18 or by chance, the player may receive free games or credits which
19 can be redeemed for cash or prizes or anything of value. No
20 machine shall directly dispense any coins, cash, tokens or
21 anything of value.

22 Section 3. Video Poker Machine Control Commission.

23 (a) Commission created.--An independent commission to be
24 known as the Video Poker Machine Control Commission is hereby
25 created. The commission shall consist of three members, one to
26 be appointed by the Governor, one by the Speaker of the House of
27 Representatives and one by the President pro tempore of the
28 Senate.

29 (b) Members.--Of the original members, one shall be
30 appointed for a term of two years; one for a term of four years;

1 one for a term of six years; and thereafter, all appointments
2 shall be for terms of six years or until successors are
3 appointed and qualified. All successors shall be appointed by
4 the same appointing authority as the members whom they are
5 replacing.

6 (c) Registration.--No more than two members shall be
7 registered under the same political party.

8 (d) Expenses.--Each member of the commission shall receive
9 no compensation but shall be reimbursed for all actual and
10 necessary expenses performed in the course of the member's
11 duties.

12 Section 4. Qualifications.

13 (a) Citizenship and residency.--Each member of the
14 commission at the time of appointment and qualification shall be
15 a citizen of the United States and a resident of this
16 Commonwealth and shall have been a qualified elector in the
17 Commonwealth for a period of at least two years preceding the
18 member's appointment.

19 (b) Offices.--No member of the commission shall, during the
20 member's period of service, hold any other office under the laws
21 of this Commonwealth or the United States or seek elected office
22 of any kind within the Commonwealth or the United States.

23 Section 5. Chairman of commission and quorum.

24 (a) Election.--The commissioners shall elect a chairman from
25 their membership. The chairman shall, when present, preside at
26 all meetings. In the chairman's absence, a designated member
27 shall preside.

28 (b) Quorum.--Two members of the commission shall constitute
29 a quorum and any action or order of the commission shall require
30 the approval of at least two members.

1 Section 6. Director.

2 The commission may appoint an executive director to hold
3 office at its pleasure. The director, if appointed, shall have
4 powers and duties as the commission shall prescribe and shall
5 receive compensation as the commission, with the approval of the
6 State Executive Board, shall determine. The director shall have
7 the authority to designate a deputy director to perform the
8 duties of director during the director's absence.

9 Section 7. Bonds.

10 (a) Requirement.--Before entering upon the duties of their
11 respective offices or positions, each member of the commission
12 and the director shall execute and file with the State Treasurer
13 a bond in such sum as shall be fixed by the Executive Board of
14 this Commonwealth upon recommendation of the Governor, but the
15 amount of any bond shall not be less than \$40,000. Bonds in such
16 sums as shall be fixed by the Executive Board shall be executed
17 and filed with the State Treasurer by the Video Poker Machine
18 Control Commission as the head of such board, with the approval
19 of the Executive Board, shall prescribe. Bonds shall be payable
20 to the Commonwealth and shall be conditioned for the faithful
21 performance of the members', secretary's or employees' duties
22 imposed by law and that the person bonded will not knowingly
23 violate the provisions of this act.

24 (b) Approval and costs.--All bonds required shall, before
25 being accepted by the State Treasurer, be approved by the Office
26 of Attorney General. Unless the Commonwealth establishes its own
27 indemnity fund, all bonds shall be given with security approved
28 by the Office of Attorney General. If the Commonwealth
29 establishes its own indemnity fund, the Executive Board may,
30 nevertheless, require any bond given to be executed by a surety

1 or sureties satisfactory to the Office of Attorney General. The
2 cost of bonds required to be executed by a surety or sureties
3 shall be borne by the commission as a part of its operating
4 expense.

5 Section 8. Powers and duties of commission.

6 (a) General powers and duties.--The commission shall have
7 the power to prescribe rules and regulations and its duty shall
8 be to:

9 (1) Provide for licensing and taxing procedures under
10 this act.

11 (2) Prescribe all necessary application and reporting
12 forms to be used in this act.

13 (3) Grant or deny license applications.

14 (b) License approval.--The commission may not deny any
15 application or limit, condition or restrict any license except
16 for reasonable cause. An applicant shall not be granted a
17 license unless:

18 (1) If applicant is an individual:

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

22 (ii) The applicant is a citizen of the United States
23 and a resident of the Commonwealth for at least two years
24 previous to the application.

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

27 (3) If applicant is a corporation:

28 (i) It must be a registered Pennsylvania corporation
29 of at least one year.

30 (ii) At least 50% of its directors must be

1 Pennsylvania residents for at least one year.

2 (iii) All officers must qualify as individuals under
3 paragraph (1).

4 (iv) All stockholders shall be individuals.

5 (c) Hearing.--Any person who was denied a license shall have
6 the right to a hearing before the commission. The hearing shall
7 be conducted in accordance with the provisions of Title 2 of the
8 Pennsylvania Consolidated Statutes (relating to administrative
9 law and procedure).

10 (d) Winning percentage.--The commission shall prescribe
11 winning percentage and necessary machine accounting information.
12 All video poker machines will be set to award players minimum
13 winnings of 80% or more. All video poker machines will have
14 electronic accounting devices to verify revenue due the
15 Commonwealth and winning percentages.

16 (e) Violations.--The commission shall investigate, suspend
17 or revoke licensees for violations of this act and hold hearings
18 in which to consider these matters. No license shall be
19 suspended or revoked until a hearing is completed. The fine for
20 a violation of provisions of this act or of regulations adopted
21 under this act shall not exceed \$5,000 for the first offense and
22 \$15,000 for each subsequent violation.

23 (f) Standards of conduct.--Prescribe rules and regulations
24 for the conduct of the officers, employees and agents of this
25 commission.

26 Section 9. Use of enforcement agents.

27 (a) Powers.--Employees of the commission designated as
28 enforcement agents shall be empowered to investigate the
29 background and associates of every license applicant to whatever
30 extent is judged necessary by the commission. No investigation

1 shall be undertaken prior to the submission of an application
2 for a license by a party and no investigation shall continue
3 subsequent to the grant of a license, the denial of a license or
4 the withdrawal of a license application.

5 (b) Authority.--Enforcement agents are empowered to be peace
6 officers and shall have police power and authority throughout
7 this Commonwealth to arrest, on view or under warrant, any
8 person tampering with video poker machines, attempting or
9 conspiring to manipulate the outcome or the payoff of any
10 machine or manipulating the outcome or payoff of any machine, by
11 physical tampering or through the interference of the lawful and
12 proper functioning of the mechanism by any means whatsoever.

13 (c) Investigation and report.--Enforcement agents may
14 investigate any alleged illegal activities concerning video
15 poker machines and their operation, maintenance and placement.
16 Findings shall be reported in writing to the commission which
17 shall relay any suspected criminal activity or violations of the
18 law to the district attorney for prosecution.

19 Section 10. Unlawful use by minors.

20 (a) Minors.--No person under 21 years of age shall use or
21 play the video poker machines. Any minor using or playing a
22 video poker machine or attempting to use or play a video poker
23 machine shall, upon conviction, be liable for a fine not in
24 excess of \$1,000.

25 (b) Licensees.--Any licensee who permits a person under 21
26 years of age to play or use the video poker machines in any
27 fashion, whether that licensee is actually aware of the minor's
28 age or not, shall upon conviction be liable for a fine not in
29 excess of \$5,000. The establishment of all the following facts
30 by a person allowing a minor to operate the video poker machines

1 shall constitute a defense to any prosecution under this
2 subsection:

3 (1) The minor falsely represented in writing that the
4 minor was 21 years of age or over.

5 (2) The appearance of the minor was such that an
6 ordinary person of prudent judgment would believe the minor
7 to be 21 years of age or over.

8 (3) The permission to operate the video poker machines
9 was made in good faith, relying upon written representation
10 and appearance and in the reasonable belief that the minor
11 was actually 21 years of age or over.

12 Section 11. Local option.

13 (a) Placement on ballot.--A majority of the voters of any
14 political subdivision such as cities, towns, townships or
15 boroughs within this Commonwealth shall have the option to
16 reject the placement of coin-operated video poker machines in
17 their respective political subdivision within 30 days from the
18 effective date of this act, provided that the rejection is
19 adopted by a majority of the voters of that political
20 subdivision, in conformity with the act of June 3, 1937
21 (P.L.1333, No.320), known as the Pennsylvania Election Code. The
22 question shall be placed upon the ballot of that political
23 subdivision for the next regularly scheduled election as a "no"
24 question, providing 25% of the registered voters of that
25 political subdivision sign a petition requesting that the
26 question be put on the ballot. The results shall be transmitted
27 to the Secretary of the Commonwealth who shall have the duty of
28 informing the commission of the result.

29 (b) Special election.--No special election shall be held to
30 answer this question. However, if a special election is held to

1 decide other matters, this question may properly be placed on
2 that ballot along with the other matters to be decided.

3 Section 12. Authority to license.

4 After approving the proper applications, the commission may
5 issue the following licenses:

6 (1) Manufacturer's license:

7 (i) A person that manufactures or assembles video
8 poker machines for use in Pennsylvania.

9 (ii) The annual fee shall be \$25,000.

10 (2) Distributor's license:

11 (i) A person that buys or sells video poker machines
12 in Pennsylvania, other than operators.

13 (ii) The annual fee shall be \$10,000.

14 (3) Operator's license:

15 (i) A person that owns, services and maintains video
16 poker machines to place in commission approved locations.

17 (ii) The annual fee shall be \$50,000. This fee
18 includes 100 individual video poker machine licenses. For
19 each additional video poker machine license an operator
20 needs, the fee is \$500 per machine.

21 (iii) Every video poker machine in use must have a
22 \$500 license displayed.

23 (4) For any commercial establishment which is approved
24 by the Commonwealth and uses video poker machines, the
25 maximum video poker machines allowed per location shall be
26 three. No video poker machines may be placed in any
27 commercial establishment unless the owner of the commercial
28 establishment has entered into a contract with an operator
29 for the placement of the machine or machines for a minimum
30 term of one year.

1 (5) No operator shall be issued more than one license.

2 (6) No person can hold more than one class of license
3 directly or indirectly or have any interest therein.

4 Section 13. Authority to tax.

5 (a) Tax levy.--The commission shall levy a video poker
6 machine net revenues tax. The amount of this tax is 40% of the
7 net profit of each video poker machine. Net profit equals the
8 income of each machine after all prizes have been paid.

9 (b) Collection.--This tax will be collected by the operator
10 for each licensed video poker machine on location.

11 (c) Reports.--The operator will make a report to the county
12 treasurer and the Commonwealth once each month with the
13 following information:

14 (1) Serial number of each video poker machine totalizer.

15 (2) Where machine is located, name and address.

16 (3) Computer printout of the net revenue of each machine
17 taken directly from totalizer.

18 Section 14. Distribution of tax.

19 The operator of each video poker machine shall send a monthly
20 report and the tax money to the county treasurer where the
21 machines are located to be distributed as follows:

22 (1) Eighteen percent of net revenue of each video poker
23 machine to the Commonwealth for transportation for education.

24 (2) Ten percent of net revenue of each video poker
25 machine to the political subdivision where the video poker
26 machine is located.

27 (3) Ten percent of net revenue of each video poker
28 machine earmarked to education for special education
29 intermediate unit costs where the video poker machine is
30 located.

1 (4) Two percent of net revenue to the county treasurers
2 for their county for collecting and distributing funds in
3 each county.

4 Section 15. Creation of account.

5 All revenues from licenses and fines shall be placed in a
6 restricted revenue account to fund the total operation of the
7 commission, including but not limited to salaries and
8 administrative expenses.

9 Section 16. Preemption of local taxes and license fees.

10 (a) Preemption.--By enactment of this act, all coin-operated
11 video poker machines and coin-operated amusement machines will
12 be exempt from any taxes levied under the authority of the act
13 of December 31, 1965 (P.L.1257, No.511), known as The Local Tax
14 Enabling Act, or the act of August 5, 1932 (Sp.Sess., P.L.45,
15 No.45), referred to as the Sterling Act.

16 (b) Fees restricted.--By enactment of this act, all coin-
17 operated amusement games, excluding video poker machines, may be
18 licensed by local political subdivisions for a total up to, but
19 not exceeding, \$25 per machine per year.

20 Section 17. Exemption from State gambling laws.

21 On enactment of this act, all video poker machines will be
22 exempt from State gambling laws.

23 Section 18. Exemption from Federal regulation.

24 The General Assembly declares that the Commonwealth is exempt
25 from the provisions of section 2 of the act of January 2, 1981,
26 64 Stat. 1134, 15 U.S.C. § 1172, all shipments of video devices
27 into this Commonwealth in compliance with sections 3 and 4 of
28 that act shall be deemed legal shipments into this Commonwealth.

29 Section 19. Effective date.

30 This act shall take effect in 60 days.