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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1408

Session of  
1985

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INTRODUCED BY TRELLO, SEVENTY, CALTAGIRONE, PRESTON, VEON,  
PERZEL, STABACK, MICHLOVIC, KENNEY, RICHARDSON, BURD AND  
PETRONE, JUNE 12, 1985

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REFERRED TO COMMITTEE ON FINANCE, JUNE 12, 1985

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AN ACT

1 Providing for licensing and placement of video poker machines in  
2 this Commonwealth, for powers and duties of the Department of  
3 Revenue, for local option and for distribution of revenues.

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1 Section 15. Exemption from State gambling laws.

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4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Video Poker  
8 Control Law.

9 Section 2. Definitions.

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

13 "Clubs." Nonprofit establishments which have a valid club  
14 liquor license under the act of April 12, 1951 (P.L.90, No.21),  
15 known as the Liquor Code.

16 "Department." The Department of Revenue of the Commonwealth.

17 "Distributor." An individual, partnership or corporation  
18 licensed under this act to buy, sell, lease or distribute video  
19 poker machines. The term excludes machine owners and  
20 manufacturers.

21 "Gross proceeds." The total amount of money placed into  
22 video poker machines by players plus the value of credits which  
23 are played rather than cashed in for prizes won.

24 "Incentives." A consideration, including a premium or bonus  
25 in cash or advance commission or merchandise offered from a  
26 machine owner to a licensed establishment in order to solicit  
27 its business.

28 "Licensed establishment." A restaurant, bar, tavern, hotel  
29 or club which has a valid liquor license under the Liquor Code.

30 "Machine owner." An individual, partnership or corporation

1 licensed under this act that owns, services and maintains video  
2 poker machines for placing in various State-approved places.

3 "Manufacturer." An individual, partnership or corporation  
4 licensed under this act that manufactures or assembles video  
5 poker machines.

6 "Net profits." Gross proceeds after prizes have been paid.

7 "Operator." A club or establishment licensed under this act  
8 to offer video poker by the placing and making available for  
9 play of video poker machines.

10 "Participating political subdivision." A city, incorporated  
11 town, township or borough where video poker machines are in use  
12 under this act.

13 "Video poker machine." A device or machine which, upon  
14 insertion of a coin, is available to play or simulate the play  
15 of the game of poker utilizing a video display and  
16 microprocessors and in which, whether by the skill of the player  
17 or by chance, the player may receive free games or credits which  
18 can be redeemed for cash or anything of value.

19 Section 3. Powers and duties of department.

20 (a) General powers and duties.--The department has the power  
21 and duty:

22 (1) To promulgate regulations to:

23 (i) Provide for licensing procedures under this act.

24 (ii) Prescribe necessary application and reporting  
25 forms to be used under this act.

26 (iii) Prescribe electronic accounting devices  
27 necessary to verify reports to be used in this act.

28 (2) To grant or deny license applications.

29 (3) To employ enforcement agents and other employees  
30 necessary to carry out the functions of the department under

1 this act. Persons employed must be citizens of the United  
2 States. Persons employed must not have a direct or indirect  
3 interest in a person or entity licensed under this act.  
4 Persons employed shall be fingerprinted and bonded. The  
5 department may not employ persons who have done one of the  
6 following:

7 (i) Been convicted of or pleaded guilty or no  
8 contest to a felony.

9 (ii) Been convicted of, pleaded guilty or no contest  
10 to, paid a fine for, or forfeited a bond to appear in  
11 relation to a violation of a Federal or state statute  
12 concerning gambling or lottery devices, equipment or  
13 games.

14 (3) Inspect and approve a video poker machine  
15 representative of each type of machine to be used in video  
16 poker games and conduct spot inspections of video poker  
17 machines on premises where they are being played to ensure  
18 that the devices comply with this act and regulations  
19 promulgated under paragraph (1) and that the devices do not  
20 vary in a meaningful manner from the inspected and approved  
21 representative device of the same type.

22 (b) License approval.--The department may not grant an  
23 applicant a license unless:

24 (1) If the applicant is an individual all of the  
25 following apply:

26 (i) The applicant is an honest person of good  
27 character and integrity and is qualified and has adequate  
28 financing from suitable sources.

29 (ii) The applicant is a citizen of the United States  
30 and a resident of this Commonwealth for at least two

1 years previous to the application.

2 (iii) The applicant has not been convicted of nor  
3 pleaded guilty or no contest to a felony.

4 (iv) The applicant has not been convicted of,  
5 pleaded guilty or no contest to, paid a penalty for, nor  
6 forfeited a bond to appear in relation to a violation of  
7 a Federal or state statute concerning gambling or lottery  
8 devices, equipment or games.

9 (v) The applicant has no direct or indirect interest  
10 in a person or entity holding a type of license other  
11 than the type for which the applicant is applying.

12 (2) If the applicant is a partnership, the partners,  
13 general and limited, qualify as individuals under paragraph  
14 (1).

15 (3) If the applicant is a corporation all of the  
16 following apply:

17 (i) It is a registered Pennsylvania corporation for  
18 at least two years.

19 (ii) At least 50% of its directors are Pennsylvania  
20 residents for at least two years.

21 (iii) All officers qualify as individuals under  
22 paragraph (1).

23 (iv) Its stockholders are individuals.

24 (v) Every stockholder owning 5% or more of the stock  
25 of the corporation qualifies as an individual under  
26 paragraph (1).

27 (c) Hearing.--A person who was denied a license has the  
28 right to a hearing before the department. The hearing shall be  
29 conducted under 2 Pa.C.S. Ch. 5, Subch. A (relating to practice  
30 and procedure of Commonwealth agencies).

1 (d) Winning percentage.--The department shall prescribe  
2 necessary machine accounting information under subsection  
3 (a)(1)(iii). Video poker machines shall be set to award players  
4 minimum winnings of 78%. Video poker machines shall have  
5 electronic accounting devices to verify revenue due and winning  
6 percentages.

7 (e) Violations.--The department shall investigate, penalize  
8 civilly and suspend or revoke licenses for violations of this  
9 act and shall hold hearings in which to consider these matters.  
10 A license may not be suspended or revoked until a hearing is  
11 completed. The fine for a violation of regulations promulgated  
12 under this act may not exceed \$5,000 for the first violation and  
13 \$15,000 for each subsequent violation. In addition to the fine,  
14 interest on any moneys held improperly, as the department may  
15 prescribe, shall be collected.

16 Section 4. Use of enforcement agents.

17 (a) Powers.--Employees of the department designated as  
18 enforcement agents are empowered to investigate the background  
19 and associates of license applicants to whatever extent is  
20 judged necessary by the department. No investigation may be  
21 undertaken prior to the submission of an application for a  
22 license by a party. No investigation may continue subsequent to  
23 the granting of a license, the denial of a license or the  
24 withdrawal of a license application.

25 (b) Authority.--Enforcement agents are empowered to be peace  
26 officers and shall have police power and authority throughout  
27 this Commonwealth to arrest, on view or under warrant, a person  
28 who is violating a criminal provision of this act.

29 (c) Investigation and report.--Enforcement agents may  
30 investigate alleged illegal activities concerning video poker

1 machines and their operation, maintenance and placement.  
2 Findings shall be reported in writing to the department. The  
3 department shall relay suspected criminal activity or violations  
4 of the law to the appropriate district attorney for prosecution.

5 (d) State and local police.--In addition to any other person  
6 authorized to enforce the provisions of this act, the  
7 Pennsylvania State Police and police of participating political  
8 subdivisions are empowered to enforce this act.

9 Section 5. Unlawful use by minors.

10 (a) Minors.--No person under 21 years of age may use or play  
11 the video poker machines. A minor using or playing or attempting  
12 to use or play a video poker machine commits a summary offense  
13 and shall, upon conviction, pay a fine not in excess of \$1,000.

14 (b) Licensees.--A licensed establishment which permits a  
15 person under 21 years of age to play or use the video poker  
16 machines, whether or not that licensed establishment is actually  
17 aware of the minor's age, commits a summary offense and shall,  
18 upon conviction, pay a fine not in excess of \$5,000. The  
19 establishment of the following facts by a person allowing a  
20 minor to operate the video poker machines constitutes a defense  
21 to prosecution under this subsection:

22 (1) The minor falsely represented in writing that the  
23 minor was 21 years of age or older.

24 (2) The appearance of the minor was such that an  
25 ordinary person of prudent judgment would believe the minor  
26 to be 21 years of age or older.

27 (3) The permission to operate the video poker machines  
28 was made in good faith, relying upon written representation  
29 and appearance and in the reasonable belief that the minor  
30 was actually 21 years of age or older.

1 Section 6. Direct dispensing.

2 A video poker machine may not directly dispense coins, cash,  
3 tokens, tickets or any other article of exchange or value. A  
4 video poker machine shall be designed and manufactured to record  
5 all use of the device and the amounts deposited in the device.

6 Section 7. Local option.

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

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

24 Section 8. Authority to license.

25 (a) Types of license.--After approving the proper  
26 applications, the department may issue the following licenses:

27 (1) A manufacturer's license may be issued to an  
28 individual, partnership or corporation that manufactures,  
29 assembles or produces video poker machines for use in this  
30 Commonwealth. The annual fee shall be \$25,000.



1           (2) A distributor's license may be issued to an  
2 individual, partnership or corporation that buys, sells,  
3 leases or distributes video poker machines in this  
4 Commonwealth. The annual fee shall be \$10,000.

5           (3) A machine owner's license may be issued to a person  
6 who owns, services and maintains video poker machines for  
7 placement in licensed establishments. The annual fee shall be  
8 \$25,000 for the first 50 individual video poker machine  
9 licenses. For each additional video poker machine, the annual  
10 fee shall be \$500 per machine. Every video poker machine in  
11 use in this Commonwealth must have a current \$500 license  
12 displayed. Every video poker machine licensed under this act  
13 must be manufactured by an individual, partnership or  
14 corporation licensed under paragraph (1).

15           (4) A licensed establishment shall obtain a licensed  
16 establishment license in order to have video poker machines  
17 on its premises. The annual fee for the license shall be as  
18 follows:

19               (i) Class I - \$500 (for up to and including three  
20 video poker machines).

21               (ii) Class II - \$1,500 (for up to and including five  
22 video poker machines).

23               (iii) Class III - \$5,000 (for up to and including  
24 ten video poker machines).

25           (b) Requirements.--For a licensed establishment which uses  
26 video poker machines, the maximum number of video poker machines  
27 allowed shall be ten. No video poker machines may be placed in a  
28 licensed establishment unless the owner, or, in the case of a  
29 club, the proper authority of the licensed establishment, has  
30 entered into a contract with a machine owner for the placement

1 of the machines for a minimum term of one year.

2 (c) Licensees.--No person may hold more than one type of  
3 license, directly or indirectly, or have any interest therein.

4 (d) Incentives.--A machine owner may not give and a licensed  
5 establishment may not receive an incentive. A person who  
6 violates this subsection commits a misdemeanor of the third  
7 degree and shall, upon conviction, be sentenced to pay a fine of  
8 \$1,000, or to imprisonment for not more than one year, or both.

9 Section 9. Distribution of proceeds.

10 (a) Manner of distribution.--The net profits derived from a  
11 video poker machine shall be distributed as follows:

12 (1) Twenty-five percent to the machine owner.

13 (2) Twenty-five percent to the licensed establishment  
14 where the machine is located.

15 (3) Forty percent to county governments to finance local  
16 public transportation.

17 (4) Ten percent to local governments to be used for  
18 property tax relief as set forth in section 10.

19 (b) Collection.--Net profits shall be collected by the  
20 machine owner for each licensed video poker machine.

21 (c) Reports.--The machine owner shall make a report to the  
22 county treasurer and the department each month with the  
23 following information:

24 (1) Serial number of each video poker machine electronic  
25 accounting device.

26 (2) Name and address of premises where machine is  
27 located.

28 (3) Computer printout of the net profits of each machine  
29 taken directly from the electronic accounting device.

30 Section 10. Local government revenues.

1 (a) Distribution.--The owner of each video poker machine  
2 shall send a monthly report and the 10% of machine net profits  
3 to the treasurer of the county where the machines are located to  
4 be distributed within 30 days as follows:

5 (1) Fifty percent to school districts.

6 (2) Fifty percent to municipalities other than counties.

7 (b) Purpose.--It is the intent of the General Assembly that  
8 the moneys distributed in this section be used to reduce  
9 property taxes.

10 Section 11. Creation of account.

11 Revenues from licenses and fines under this act shall be  
12 placed in a restricted revenue account to fund the operation of  
13 the department as required by this act, including, but not  
14 limited to, salaries and administrative expenses. The department  
15 shall allocate a minimum of \$1,000,000 annually to be used for  
16 treatment of compulsive gamblers by Gamblers Anonymous in  
17 accordance with regulations to be adopted by the department.

18 Section 12. Preemption of local taxes and license fees.

19 Video poker machines and coin-operated amusement machines  
20 shall be exempt from taxes levied under the act of August 5,  
21 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act,  
22 the act of December 31, 1965 (P.L.1257, No.511), known as The  
23 Local Tax Enabling Act, or the act of April 13, 1972 (P.L.184,  
24 No.62), known as the Home Rule Charter and Optional Plans Law.

25 Section 13. Existing machines.

26 Video poker machines manufactured and sold to machine owners  
27 or distributors prior to the effective date of this act are  
28 exempt from the manufacturing provisions of this act. These  
29 machines shall be considered to have been manufactured,  
30 distributed, sold and used legally in this Commonwealth.

1 Section 14. Penalty.

2 (a) Manufacture.--A person may not manufacture, assemble or  
3 produce a video poker machine in this Commonwealth unless the  
4 person has a valid manufacturer's license issued under section  
5 8(a)(1).

6 (b) Distribution.--A person may not sell, distribute, lease  
7 or market a video poker machine in this Commonwealth unless the  
8 person has a valid distributor's license issued under section  
9 8(a)(2).

10 (c) Use.--A person may not offer, enable or allow the  
11 playing of video poker at an establishment unless that  
12 establishment has a valid licensed establishment license issued  
13 under section 8(a)(4). A person with a valid licensed  
14 establishment license may not have more than ten video poker  
15 machines in a licensed establishment at the same time.

16 (d) Tampering.--A person may not manipulate the outcome or  
17 payoff of a video poker machine through interference with the  
18 proper functioning of the mechanism.

19 (e) Classification.--

20 (1) A person who violates this section commits a  
21 misdemeanor of the third degree and shall, upon conviction,  
22 be sentenced to pay a fine of \$1,000, or to imprisonment for  
23 not more than one year, or both.

24 (2) A person who violates this section a second time  
25 commits a misdemeanor of the second degree and shall, upon  
26 conviction, be sentenced to pay a fine of \$2,000, or to  
27 imprisonment for not more than two years, or both.

28 (3) A person who violates this section a third and  
29 subsequent time commits a misdemeanor of the third degree and  
30 shall, upon conviction, be sentenced to pay a fine of \$5,000,

1 or to imprisonment for not more than five years, or both.

2 Section 15. Exemption from State gambling laws.

3 Video poker machines and their use are exempt from 18 Pa.C.S.  
4 § 5513 (relating to gambling devices, gambling, etc).

5 Section 16. Exemption from Federal regulation.

6 The General Assembly declares that the Commonwealth is exempt  
7 from section 2 of the Gambling Devices Transportation Act (64  
8 Stat. 1134, 15 U.S.C. § 1172). Shipments of video devices into  
9 this Commonwealth in compliance with sections 3 and 4 of the  
10 Gambling Devices Transportation Act (64 Stat. 1134, 15 U.S.C. §§  
11 1173 and 1174) shall be deemed legal shipments into this  
12 Commonwealth.

13 Section 17. Effective date.

14 This act shall take effect in 60 days.