

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 248 Session of
1991

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FEBRUARY 5, 1991

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 22, 1991

AN ACT

1 Authorizing limited gambling on excursion boats; imposing a tax
2 on adjusted gross receipts from such gambling; requiring
3 licenses; imposing fees; and providing penalties for
4 violations.

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14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Short title.

17 This act shall be known and may be cited as the Excursion
18 Boat Gambling Act.

19 Section 2. Definitions.

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

23 "Adjusted gross receipts." The gross receipts less winnings
24 paid to wagerers.

25 "Applicant." A person, including an individual, partnership,
26 corporation or association applying for an occupational license
27 or applying for a license to operate an excursion gambling boat.

28 "Cheat." To alter the selection of criteria which determine
29 the result of a gambling game or the amount or frequency of
30 payment in a gambling game.

1 "Commission." The Excursion Boat Gambling Commission created
2 under this act.

3 "Distributor." A person who sells, markets or otherwise
4 distributes gambling games, devices or implements of gambling
5 which are usable in the lawful conduct of gambling games
6 pursuant to this act to a licensee authorized to conduct
7 gambling games pursuant to this act.

8 "Dock." The location where an excursion gambling boat is
9 continuously docked or where it moors for the purpose of
10 embarking passengers for and disembarking passengers from a
11 gambling excursion.

12 "Excursion gambling boat." A self-propelled excursion boat,
13 having a capacity of at least 200 persons, on which lawful
14 gambling is authorized and licensed as provided in this act.

15 "Excursion season." The months of January through December.

16 "Gambling device." A slot machine or video game of chance.

17 "Gambling game." Includes, but is not limited to, twenty-
18 one, poker, keno layout, dice, slot machine, video game of
19 chance or roulette wheel and any other game as may be authorized
20 by this act.

21 "Gross receipts." The total sums wagered under this act.

22 "Holder of occupational license." A person licensed by the
23 Excursion Boat Gambling Commission to perform an occupation
24 which the commission has identified as requiring a license to
25 engage in excursion boat gambling.

26 "Implements of gambling." Any product, device or component
27 thereof the use of which directly influences the outcome of a
28 gambling game.

29 "Licensee." A person licensed under this act.

30 "Manufacturer." A person who designs, assembles, fabricates,

1 produces, constructs or otherwise prepares a product or a
2 component part of a product of any implement of gambling usable
3 in the lawful conduct of gambling games pursuant to this act.

4 "Operator." A person who is licensed to operate gambling
5 games on an excursion gambling boat that he owns.

6 Section 3. Application of act.

7 This act applies only to excursion boat gambling. It does not
8 apply to horse racing, the State lottery, bingo or any other
9 type of gambling.

10 Section 4. Powers and authority.

11 The commission shall have full jurisdiction over and shall
12 supervise all gambling operations governed by this act, and
13 shall have the following powers:

14 (1) To investigate and determine the eligibility of
15 applicants for a license, and to select among competing
16 applicants, the applicant or applicants which best serve the
17 interests of the citizens of this Commonwealth.

18 (2) To license operators, to identify occupations within
19 the excursion gambling boat operations which require
20 licensing, to adopt standards for licensing the occupations,
21 and to establish fees for the occupational licenses. The fees
22 shall be paid to the commission and deposited in a special
23 account in the General Fund which is hereby established. All
24 revenue received by the commission from license fees and
25 admission fees shall be deposited in the special account in
26 the General Fund.

27 (3) To adopt standards under which all excursion
28 gambling boat operations shall be held and standards for the
29 facilities within which the gambling operations shall be
30 held. The commission may authorize the operation of gambling

1 games on an excursion gambling boat which is also licensed to
2 sell or serve alcoholic beverages, wine or beer.

3 (4) To regulate the wagering structure for gambling
4 excursions, including providing a maximum wager of \$5 per
5 hand or play and a maximum loss of \$200 per individual player
6 per gambling excursion.

7 (5) To enter the office, excursion gambling boat,
8 facilities or other places of business of a licensee to
9 determine compliance with this act.

10 (6) To investigate alleged violations of this act or
11 commission rules, regulations, orders or decisions, and to
12 take appropriate disciplinary action against a licensee or a
13 holder of an occupational license for a violation, or
14 institute appropriate legal action for enforcement, or both.

15 (7) To require a licensee, an employee of a licensee or
16 holder of an occupational license to remove a person
17 violating a provision of this act or the commission rules,
18 orders, final orders or other person deemed to be undesirable
19 from the excursion gambling boat facilities.

20 (8) To require the removal of a licensee, an employee of
21 a licensee or a holder of an occupational license for a
22 violation of this act or a commission rule, regulation, order
23 or decision or for engaging in a fraudulent practice.

24 (9) To require an operator to file an annual balance
25 sheet and profit and loss statement pertaining to the
26 operator's gambling activities in this Commonwealth, together
27 with a list of the stockholders or other persons having any
28 equity or beneficial interest in the gambling activities of
29 each operator.

30 (10) To issue subpoenas for the attendance of witnesses

1 and subpoenas duces tecum for the production of books,
2 records and other pertinent documents and to administer oaths
3 and affirmations to witnesses.

4 (11) To keep accurate and complete records of its
5 proceedings and to certify the records as may be appropriate.

6 (12) To assess a fine and revoke or suspend licenses.

7 (13) To take any other action as may be reasonable or
8 appropriate to enforce this act and commission rules,
9 regulations, orders and decisions.

10 (14) To require all licensees of gambling game
11 operations to utilize a cashless wagering system whereby all
12 players' money is converted to tokens, electronic cards or
13 chips which can be used only for wagering on the excursion
14 gambling boat.

15 (15) To ensure that the gambling games authorized under
16 this act are conducted fairly. No gambling device shall be
17 set to pay out less than 80% of all wagers.

18 (16) To promulgate such regulations as may be necessary
19 to implement this act.

20 SECTION 5. STATEMENT OF INTENT. <—

21 (A) GENERAL RULE.--A PERSON WHO INTENDS TO APPLY FOR A
22 MANUFACTURER'S, DISTRIBUTOR'S OR EXCURSION GAMBLING BOAT
23 OPERATOR'S LICENSE, MUST FIRST FILE A STATEMENT OF INTENT WITH
24 THE COMMISSION. THE STATEMENT SHALL INCLUDE:

25 (1) THE NAME AND ADDRESS OF THE PERSON, PARTNERSHIP OR
26 CORPORATION WHICH INTENDS TO FILE AN APPLICATION; AND

27 (2) THE TYPE OF LICENSE THAT WILL BE APPLIED FOR.

28 (B) FEES.--

29 (1) THE FILING FEES WHICH MUST ACCOMPANY THE STATEMENT
30 OF INTENT SHALL BE AS FOLLOWS:

1 (I) FOR MANUFACTURERS AND DISTRIBUTORS \$2,500.

2 (II) FOR OPERATORS \$25,000.

3 (2) THE FILING FEE SHALL BE APPLIED TO THE APPLICANT'S
4 LICENSE FEE IF A LICENSE IS SUBSEQUENTLY APPROVED BY THE
5 COMMISSION.

6 (3) THE FULL FEE SHALL BE REFUNDED IF THE SUBSEQUENT
7 APPLICATION IS DENIED BY THE COMMISSION.

8 (4) AN APPLICANT MAY ALSO WITHDRAW THE STATEMENT OF
9 INTENT AT ANY TIME AND SHALL BE ENTITLED TO A FULL REFUND OF
10 THE FEE.

11 (C) WHEN NOT REQUIRED.--THE STATEMENT OF INTENT IS NOT
12 REQUIRED FOR RENEWAL OF A LICENSE NOR IS IT REQUIRED OF AN
13 APPLICANT FOR AN OCCUPATIONAL LICENSE.

14 (D) WAIVER.--THE COMMISSION MAY WAIVE THE REQUIREMENT OF A
15 STATEMENT OF INTENT 12 MONTHS OR MORE AFTER THE EFFECTIVE DATE
16 OF THIS ACT IF THE COMMISSION CERTIFIES IT HAS SUFFICIENT
17 FINANCES ON HAND TO MEET THE BUDGET REQUIREMENTS OF THIS ACT.
18 THE CERTIFICATION SHALL BE PUBLISHED IN THE PENNSYLVANIA
19 BULLETIN.

20 Section 5 6. Applications for operators licenses.

<—

21 (a) General rule.--A person may apply to the commission for
22 a license to operate gambling games on an excursion gambling
23 boat. The application shall be filed with the administrator of
24 the commission at least 90 days before the first day of the next
25 excursion season, shall identify the excursion gambling boat
26 upon which gambling games will be authorized, shall specify the
27 exact location where the excursion gambling boat will be docked,
28 and shall be in a form and contain such information as the
29 commission prescribes.

30 (b) Initial license fee.--The initial license fee shall be

1 \$50,000.

2 (c) Annual license fee.--The annual license fee to operate
3 gambling games on an excursion gambling boat shall be based on
4 the passenger-carrying capacity, including crew, for which the
5 excursion gambling boat is registered. The initial annual fee
6 shall be \$25 per person-capacity and shall be subject to change
7 pursuant to section ~~10(e)~~ 11(C). <—

8 Section ~~6~~ 7. Occupational, distributor and manufacturer <—
9 licenses.

10 (a) License required.--A manufacturer or distributor of
11 gambling games or implements of gambling and any person who will
12 be employed on a excursion gambling boat in an occupation listed
13 by the commission, shall apply for a license upon a form
14 prescribed by the commission annually before January 1, and
15 shall submit the appropriate license fee. An applicant shall
16 provide such information as the commission requires. The license
17 fee for a distributor is \$10,000, and the license fee for a
18 manufacturer is \$10,000. The license fee for an occupational
19 license shall be established by the commission. The license fees
20 shall be credited to the special account provided for in section
21 4(2).

22 (b) Limitations on operators.--

23 (1) An operator shall acquire all gambling games or
24 implements of gambling from a distributor licensed pursuant
25 to this act. An operator shall not sell or give gambling
26 games or implements of gambling to another licensee.

27 (2) An operator shall not be a manufacturer or
28 distributor of gambling games or implements of gambling.

29 (3) A manufacturer shall not be a distributor or an
30 operator.

(4) A distributor shall not be a manufacturer or an operator.

(c) Suspension or revocation of license.--The commission may suspend or revoke the license of a distributor or manufacturer for a violation of this act or a rule adopted pursuant to this act committed by the distributor or manufacturer or an officer, director, employee or agent of the manufacturer or distributor.

(d) Procedures.--A manufacturer or distributor of gambling games who has been granted a license under this section shall have a representative within this Commonwealth to take delivery of gambling games or implements of gambling prior to delivery to an operator. The manufacturer or distributor shall provide the commission with a copy of the invoice showing the items shipped and a copy of the bill of lading. When received, the gambling games or implements of gambling shall be stored in a public warehouse in this Commonwealth until delivered to the operator or, after delivery is complete, the shipment may be transferred to an operator.

Section 7 8. Requirements of prospective licensee; penalty. <—

(a) Application form.--A person shall not be issued a license to conduct gambling games on an excursion gambling boat under this act, an occupational license, a distributor license or a manufacturer license unless the person has completed and signed an application on the form prescribed and published by the commission.

(1) The application shall include the full name, residence, date of birth and other personal identifying information of the applicant which the commission deems necessary. The application shall also include whether the applicant has any of the following:

1 (i) A record of conviction of a felony.

2 (ii) An addiction to alcohol or a controlled
3 substance.

4 (iii) A history of mental illness.

5 (2) A prospective licensee shall submit pictures,
6 fingerprints and descriptions of physical characteristics to
7 the commission in the manner prescribed on the application
8 forms.

9 (3) It is the burden of the prospective licensee to show
10 by a preponderance of the evidence his suitability as to
11 character, experience and adequacy of funds. If a prospective
12 licensee has a record of any of the items set forth in
13 subsection (a)(1), it may be grounds for denial of a license
14 under this act.

15 (b) Additional fee.--The commission shall charge the
16 prospective licensee a fee to defray the costs associated with
17 the search and classification of fingerprints and background
18 investigations. This fee is in addition to any other license fee
19 charged by the commission. THE COMMISSION SHALL REIMBURSE THE <—
20 PENNSYLVANIA STATE POLICE FOR ANY COSTS OR EXPENSES CONNECTED
21 WITH THE SEARCH AND CLASSIFICATION OF FINGERPRINTS AND
22 BACKGROUND INVESTIGATIONS.

23 (c) Background investigation.--Before a license is granted,
24 the Pennsylvania State Police shall conduct a thorough
25 background investigation of the applicant for a license to
26 operate a gambling game operation on an excursion gambling boat.
27 The applicant shall provide information on a form as required by
28 the Pennsylvania State Police.

29 (d) Tourism.--Before a license is granted, an operator of an
30 excursion gambling boat shall work with the Department of

1 Commerce to promote tourism in this Commonwealth. Tourism
2 information from local civic and private persons may be
3 submitted for dissemination.

4 (e) Offense.--A person who knowingly makes a false statement
5 on the application commits a misdemeanor of the second degree.

6 (f) Warrantless search.--The operator or a holder of an
7 occupational license shall consent to the search without a
8 warrant of the operator or holder's person, personal property
9 and effects, and premises which are located within the area of
10 the excursion gambling boat where gambling is permitted for
11 criminal violations of this chapter or violations of rules,
12 regulations, orders or decisions of the commission.

13 Section 9. Terms and conditions of licenses; revocation. <—

14 (a) Issuance.--If the commission is satisfied that this act
15 and its rules adopted under this act applicable to licensees
16 have been or will be complied with, the commission shall issue
17 the appropriate license. The commission shall decide the number,
18 location and type of excursion gambling boats for operation on
19 the rivers, lakes and reservoirs of this Commonwealth. The
20 license shall set forth the name of the licensee, the type of
21 license granted, the place where the excursion gambling boats
22 will operate and dock, and the time and number of days during
23 the excursion season when gambling may be conducted by the
24 licensee.

25 (b) Conditions.--A license shall be granted to an applicant
26 only upon the express conditions that:

27 (1) The applicant shall not, by lease, contract,
28 understanding or arrangement of any kind, grant, assign or
29 turn over to any person the operation of gambling games on an
30 excursion gambling boat licensed under this section or the

operation of the system of wagering described in section 10 <—

11. This section does not prohibit a management contract approved by the commission.

(2) The applicant shall not in any manner permit a person other than the operator to have a share, percentage or proportion of the money received for admissions to the excursion gambling boat.

(c) Pennsylvania resources, goods and services.--The commission shall require that an applicant utilize Pennsylvania resources, goods and services in the operation of an excursion gambling boat where feasible and obtainable. The commission shall develop standards to assure that a substantial amount of all resources and goods used in the operation of an excursion gambling boat come from Pennsylvania and that a substantial amount of all services and entertainment be provided by Pennsylvanians. The requirement of this subsection shall not limit hiring for essential crew positions related to the gambling operation, vessel operation or passenger safety.

(d) Conditions.--The commission shall, as a condition of granting a license, require an applicant to provide written documentation that, on each excursion gambling boat:

(1) No more than 50% of the square footage shall be used for gambling activity.

(2) The applicant makes every effort to ensure that a substantial number of the staff and entertainers employed are residents of this Commonwealth.

(3) A section is reserved for promotion and sale of arts, crafts and gifts native to and made in this Commonwealth.

(e) Wages.--All employees shall be paid at least 25% above

1 the Federal minimum wage level.

2 (f) When licenses not to be granted.--A license shall not be
3 granted if there is substantial evidence that any of the
4 following apply:

5 (1) The applicant has been suspended from operating a
6 game of chance or gambling operation in another jurisdiction
7 by a board or commission of that jurisdiction.

8 (2) The applicant has not demonstrated financial
9 responsibility sufficient to meet adequately the requirements
10 of the enterprise proposed.

11 (3) The applicant is not the true owner of the
12 enterprise proposed.

13 (4) The applicant is not the sole owner, and other
14 persons have ownership in the enterprise, which fact has not
15 been disclosed.

16 (5) The applicant is a corporation and 10% of the stock
17 of the corporation is subject to a contract or option to
18 purchase at any time during the period for which the license
19 is to be issued, unless the contract or option was disclosed
20 to the commission and the commission approved the sale or
21 transfer during the period of the license.

22 (6) The applicant has knowingly made a false statement
23 of a material fact to the commission.

24 (7) The applicant has failed to meet a valid, bona fide
25 monetary obligation in connection with an excursion gambling
26 boat.

27 (8) There is substantial evidence that the applicant is
28 not of good repute and moral character.

29 (9) The applicant has two other licenses issued under
30 this act.

1 (g) Loans prohibited.--An operator shall not loan to any
2 person money or any other thing of value for the purpose of
3 permitting that person to wager on any game of chance. This does
4 not prohibit credit card or debit card transactions or cashing
5 of checks in the ordinary course of business.

6 (h) Referendum.--

7 (1) A license to conduct gambling games on an excursion
8 gambling boat in a county shall be issued only if the county
9 electorate approves the conduct of the gambling games as
10 provided in this subsection. The board of county
11 commissioners, upon receipt of a valid petition, shall direct
12 the county board of elections to submit to the qualified
13 voters of the county a proposition to approve or disapprove
14 the conduct of gambling games on an excursion gambling boat
15 in the county. The proposition may be submitted at a primary
16 or general election. The petition must be received by the
17 county board of elections at least 60 days before the
18 election. If a majority of the county voters voting on the
19 proposition favor the conduct of gambling games, the
20 commission may issue one or more licenses as provided in this
21 act. If a majority of the county voters voting on the
22 proposition do not favor the conduct of gambling games, a
23 license to conduct gambling games in the county shall not be
24 issued. After a referendum has been held, another referendum
25 shall not be held for at least two years.

26 (2) If a license to conduct gambling games is in effect,
27 pursuant to a referendum as set forth in this section, and is
28 subsequently disapproved by a referendum of the county
29 electorate, the license shall be canceled as of the
30 succeeding July 1.

1 (i) Docking fee.--If a docking fee is charged by a
2 municipality, the operator shall pay the docking fee one year in
3 advance.

4 (j) Payment of taxes and fees.--An operator shall not be
5 delinquent in the payment of property taxes or other taxes or
6 fees or in the payment of any other contractual obligation or
7 debt due or owed to a municipality.

8 (k) Requirements of State agencies.--An excursion gambling
9 boat operated on waters of this Commonwealth shall meet all of
10 the requirements of the Pennsylvania Fish Commission, the
11 Department of Health and the Department of Environmental
12 Resources and is subject to inspection of its sanitary
13 facilities to protect the environment and water quality before a
14 certificate of registration is issued by the Pennsylvania Fish
15 Commission under 30 Pa.C.S. Ch. 53 (relating to registration of
16 boats) or a license is issued under this act.

17 (l) Ports of call.--If an excursion gambling boat stops at
18 more than one harbor and travels past a county without stopping
19 at any port in that county, the commission shall require the
20 excursion boat operator to develop a schedule for ports of call
21 in which a county referendum has been approved if the port of
22 call has the necessary facilities to handle the boat. The
23 commission may limit the schedule to only one port of call per
24 county.

25 (m) Revocation of license.--Upon a violation of any of the
26 conditions listed in this section, the commission shall
27 immediately revoke the license.

28 Section 9 10. Bond of operator.

<—

29 An operator shall post a bond to the Commonwealth before the
30 license is issued in such sum as the commission shall fix, with

1 sureties to be approved by the commission. The bond shall be
2 used to guarantee that the operator faithfully makes the
3 payments, keeps its books and records, makes reports, and
4 conducts its gambling games in conformity with this act and the
5 rules adopted by the commission. The bond shall not be canceled
6 by a surety on less than 30-day notice, in writing, to the
7 commission. If a bond is canceled and the operator fails to file
8 a new bond with the commission in the required amount on or
9 before the effective date of cancellation, the operator's
10 license shall be revoked. The total and aggregate liability of
11 the surety on the bond is limited to the amount specified in the
12 bond.

13 Section ~~10~~ 11. Wagering; minors prohibited. <—

14 (a) Wagering.--The operator shall permit no form of wagering
15 on gambling games, except as permitted in this section.

16 (b) Maximum wagers and losses.--Operators shall allow only a
17 maximum wager of \$5 per hand or play and a maximum loss of \$200
18 per person during each gambling excursion. However, the
19 commission may adopt rules allowing additional wagers consistent
20 with generally accepted wagering options in the games of twenty-
21 one and dice.

22 (c) Wagerers to be present.--The operator may receive wagers
23 only from persons present on an excursion gambling boat.

24 (d) Tokens, chips, etc.--The operator shall exchange the
25 money of each wagerer for tokens, chips or other forms of credit
26 to be wagered on the gambling games. The operator shall exchange
27 the gambling tokens, chips or other forms of wagering credit for
28 money at the request of the wagerer. Wagering shall not be
29 conducted with money or other negotiable currency.

30 (e) Persons under 21 years.--A person under the age of 21

1 years shall not make a wager on an excursion gambling boat. No
2 person under the age of 21 years shall be allowed in the area of
3 the excursion boat where gambling is being conducted except
4 where authorized by the act of April 12, 1951 (P.L.90, No.21),
5 known as the Liquor Code.

6 (f) Gambling when boat is docked.--An operator shall not
7 conduct gambling games while the excursion gambling boat is
8 docked unless it is only temporarily docked for embarking or
9 disembarking passengers, crew or supplies, or for mechanical
10 problems or adverse weather or other conditions adversely
11 affecting safe navigation, during the course of an excursion
12 cruise.

13 Section ~~11~~ 12. Admission fee; tax; local fees. <—

14 (a) State admission fee.--An operator shall collect and
15 remit to the commission a State admission fee for each person
16 embarking on an excursion gambling boat with a ticket of
17 admission. The State admission fee shall be set by the
18 commission.

19 (1) If tickets are issued which are good for more than
20 one excursion, the State admission fee shall be paid for each
21 person using the ticket on each excursion for which the
22 ticket is used.

23 (2) If free passes or complimentary admission tickets
24 are issued, the operator shall pay the same State fee upon
25 the passes or complimentary tickets as if they were sold at
26 the regular and usual admission rate, except that the
27 operator may issue State fee-free passes to actual and
28 necessary officials and employees of the operator and other
29 persons actually working on the excursion gambling boat.

30 (3) The issuance of State fee-free passes is subject to

1 the rules of the commission. A list of all persons to whom
2 State fee-free passes are issued shall be filed with the
3 commission.

4 (b) Local admission fee.--In addition to the State admission
5 fee charged under subsection (a) and subject to approval of
6 excursion gambling boat docking by the voters, a municipality
7 may adopt, by ordinance, an admission fee not exceeding 50¢ for
8 each person embarking on an excursion gambling boat docked
9 within the municipality. The admission revenue received by a
10 municipality shall be credited to the municipality's general
11 fund.

12 (c) Determination of fees.--In determining the annual
13 license fees and State admission fees to be charged under this
14 section, the commission shall use the amount appropriated to the
15 commission as the basis for determining the amount of revenue to
16 be raised from the license fees and State admission fees. IT IS <—
17 THE INTENT OF THE GENERAL ASSEMBLY THAT THE COMMISSION SHALL BE
18 FULLY FUNDED FROM THE MONEYS PRODUCED BY THE ANNUAL LICENSE AND
19 ADMISSION FEES.

20 (d) Prohibition against other taxes or fees.--No license
21 tax, permit tax, occupation tax, excursion fee, or other tax or
22 fee, shall be levied, assessed or collected from an operator by <—
23 ~~the Commonwealth or~~ by a political subdivision except as
24 provided in this section, nor shall any excise tax be levied,
25 assessed or collected from the operator relating to gambling
26 excursions or admission charges ~~by the Commonwealth or~~ by a <—
27 political subdivision except as provided in this section.

28 Section ~~12~~ 13. Wagering tax; rate; credit. <—

29 A wagering tax is imposed on the adjusted gross receipts
30 received annually from gambling games authorized under this act

1 at the rate of 15% of adjusted gross receipts. The taxes imposed
2 by this section shall be paid by the operator to the Department
3 of Revenue within ten days after the close of the month when the
4 wagers were made and shall be distributed as follows:

5 (1) Twenty-five percent of the wagering tax shall be
6 remitted to the treasurer of the county in which the dock is
7 located and shall be deposited in the general fund of the
8 county. Another 25% of the wagering tax shall be remitted to
9 the treasurer of the Pennsylvania municipal corporation where
10 the dock is located and shall be deposited in the general
11 fund of the municipal corporation. In the case where the
12 municipal corporation in which the dock is located, is a
13 first class city, such city shall receive 50% of the wagering
14 tax.

15 (2) The remaining amount of the wagering tax shall be
16 credited to the General Fund of the Commonwealth.

17 Section ~~13~~ 14. Books and records; reports; audits; supervision. <—

18 (a) Books and records.--An operator shall keep its books and
19 records so as to clearly show all of the following:

20 (1) The total number of admissions to gambling
21 excursions conducted by the operator on each day, including
22 the number of admissions upon free passes or complimentary
23 tickets.

24 (2) The amount received daily from admission fees.

25 (3) The total amount of money wagered during each
26 excursion day and the adjusted gross receipts for the day.

27 (b) Reports.--The operator shall furnish to the commission
28 reports and information as the commission may require with
29 respect to its activities. The commission may designate a
30 representative to board an excursion gambling boat, who shall

1 have full access to all places within the enclosure of the boat
2 and who shall supervise and check the admissions. The
3 compensation of the representative shall be fixed by the
4 commission but shall be paid by the operator.

5 (c) Records to be public.--The books and records kept by an
6 operator, as provided by this section, are public records.

7 (d) Audits.--Within 90 days after the end of each month, the
8 operator shall transmit to the commission an audit of the
9 financial transactions and condition of the operator's books and
10 records. Additionally, within 90 days after the end of the
11 operator's fiscal year, the operator shall transmit to the
12 commission an audit of the financial transactions and condition
13 of the operator. All audits shall be conducted by certified
14 public accountants who are certificated by the Department of
15 State.

16 Section ~~14~~ 15. Annual report of commission. <—

17 The commission shall make an annual report to the Governor
18 for the period ending December 31 of each year. Included in the
19 report shall be an account of the commission's actions, its
20 financial position and results of operations under this act, the
21 practical results attained under this act and any
22 recommendations for legislation which the commission deems
23 advisable.

24 Section ~~15~~ 16. Prohibited activities; penalty. <—

25 (a) Prohibited activities.--A person commits a misdemeanor
26 of the second degree for any of the following:

27 (1) Operating a gambling excursion where wagering is
28 used or to be used without a license issued by the
29 commission.

30 (2) Operating a gambling excursion where wagering is

1 permitted other than in the manner specified by section 9.

2 (3) Acting, or employing a person to act, as a shell or
3 decoy to encourage participation in a gambling game.

4 (4) Knowingly permitting a person under 21 years of age
5 to make a wager.

6 (5) Wagering or accepting a wager at any location
7 outside the excursion gambling boat.

8 (b) Serious offenses.--A person commits a class felony of
9 the third degree and, in addition, shall be barred for life from
10 excursion gambling boats under the jurisdiction of the
11 commission, if he does any of the following:

12 (1) Offers, promises or gives anything of value or
13 benefit to a person who is connected with an excursion
14 gambling boat operator, including, but not limited to, an
15 officer or employee of a licensee or holder of an
16 occupational license, pursuant to an agreement or arrangement
17 or with the intent that the promise or thing of value or
18 benefit will influence the actions of the person to whom the
19 offer, promise or gift was made in order to affect or attempt
20 to affect the outcome of a gambling game, or to influence
21 official action of a member of the commission.

22 (2) Solicits or knowingly accepts or receives a promise
23 of anything of value or benefit while the person is connected
24 with an excursion gambling boat, including, but not limited
25 to, an officer or employee of a licensee or holder of an
26 occupational license, pursuant to an understanding or
27 arrangement or with the intent that the promise or thing of
28 value or benefit will influence the actions of the person to
29 affect or attempt to affect the outcome of a gambling game,
30 or to influence official action of a member of the

1 commission.

2 (3) Uses a device to assist in any of the following:

3 (i) In projecting the outcome of the game.

4 (ii) In keeping track of the cards played.

5 (iii) In analyzing the probability of the occurrence
6 of an event relating to the gambling game.

7 (iv) In analyzing the strategy for playing or
8 betting used in the game, except as permitted by the
9 commission.

10 (4) Cheats at a gambling game.

11 (5) Manufactures, sells, or distributes any cards,
12 chips, dice, game or device which is intended to be used to
13 violate any provision of this act.

14 (6) Alters or misrepresents the outcome of a gambling
15 game on which wagers have been made after the outcome is made
16 sure but before it is revealed to the players.

17 (7) Places a bet after acquiring knowledge, not
18 available to all players, of the outcome of the gambling game
19 which is the subject of the bet or to aid a person in
20 acquiring the knowledge for the purpose of placing a bet
21 contingent on that outcome.

22 (8) Claims, collects, or takes, or attempts to claim,
23 collect, or take, money or anything of value in or from a
24 gambling game, with intent to defraud, without having made a
25 wager contingent on winning a gambling game, or claims,
26 collects, or takes an amount of money or thing of value of
27 greater value than the amount won.

28 (9) Knowingly entices or induces a person to go to any
29 place where a gambling game is being conducted or operated in
30 violation of the provisions of this act with the intent that

1 the other person plays or participates in that gambling game.

2 (10) Uses counterfeit chips or tokens in a gambling
3 game.

4 (11) Knowingly uses, other than chips, tokens, coin, or
5 other methods or credit approved by the commission, legal
6 tender of the United States, or to use coin not of the
7 denomination as the coin intended to be used in the gambling
8 games.

9 (12) Has in his possession any device intended to be
10 used to violate a provision of this act.

11 (13) Except for an operator or employee of an operator
12 acting in furtherance of the employee's employment, has in
13 his possession any key or device designed for the purpose of
14 opening, entering, or affecting the operation of a gambling
15 game, drop box, or an electronic or mechanical device
16 connected with the gambling game or for removing coins,
17 tokens, chips or other contents of a gambling game.

18 (c) Inference.--The possession of more than one of the
19 devices described in subsection (b)(3), (5), (12) or (13)
20 permits a rebuttable inference that the possessor intended to
21 use the devices for cheating.

22 (d) Exchanging tokens, chips, etc.--Except for wagers on
23 gambling games or exchanges for money as provided in section
24 ~~10(d)~~ 11(D), a licensee who exchanges tokens, chips, or other <—
25 forms of credit to be used on gambling games for anything of
26 value commits a misdemeanor of the third degree.

27 Section ~~16~~ 17. Forfeiture of property. <—

28 (a) General rule.--Anything of value, including all
29 traceable proceeds, including, but not limited to, real and
30 personal property, moneys, negotiable instruments, securities,

1 and conveyances, is subject to forfeiture to the Commonwealth if
2 the item was used:

3 (1) in exchange for a bribe intended to affect the
4 outcome of a gambling game; or

5 (2) in exchange for or to facilitate any other violation
6 of this act.

7 (b) Presumption.--All moneys, coin and currency found in
8 close proximity of wagers or of records of wagers are presumed
9 forfeited. The burden of proof is upon the claimant of the
10 property to rebut this presumption.

11 (c) Knowledge as prerequisite.--Subsections (a) and (b)
12 apply only if the act or omission which would give rise to the
13 forfeiture was committed or omitted with the owner's knowledge
14 and consent.

15 Section ~~17~~ 18. Report of implementation. <—

16 The commission shall report to the General Assembly by April
17 1, 1993, the number of excursion gambling boat licenses which
18 the commission has issued. The report shall also include the
19 administrative rules which the commission proposes or has
20 adopted to implement the provisions of this act.

21 Section ~~18~~ 19. Commission. <—

22 The River Boat Gambling Commission is created, consisting of
23 seven members, two of whom shall be appointed by the Governor
24 under the provisions of section 207.1(d) of the act of April 9,
25 1929 (P.L.177, No.175), known as The Administrative Code of
26 1929. The remaining five members shall consist of two members
27 elected to the House of Representatives, one from the majority
28 party and one from the minority party, to be appointed by the
29 Speaker of the House of Representatives and two members elected
30 to the Senate, one from the majority party and one from the

1 minority party, to be appointed by the President pro tempore of
2 the Senate. The remaining member shall be the Attorney General.
3 The members of the commission shall serve for three-year terms
4 at the pleasure of the Governor, except that the Governor's
5 original appointments shall be one for four years and one for
6 two years.

7 Section ~~19~~ 20. Exemption from State gambling laws. <—

8 Video poker machines and their use are exempt under this act
9 from 18 Pa.C.S. § 5513 (relating to gambling devices, gambling,
10 etc.).

11 Section ~~20~~ 21. Exemption from Federal regulation. <—

12 For the purposes of this act, the General Assembly declares
13 that the Commonwealth is exempt from section 2 of the Gambling
14 Devices Transportation Act (64 Stat. 1134, 15 U.S.C. § 1172 et.
15 seq.). Shipments of video devices into this Commonwealth in
16 compliance with sections 3 and 4 of the Gambling Devices
17 Transportation Act (64 Stat. 1134, 15 U.S.C. §§ 1173 and 1174)
18 shall be deemed legal shipments into this Commonwealth.

19 Section ~~21~~ 22. Effective date. <—

20 This act shall take effect immediately.