

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2410 Session of
2008

INTRODUCED BY REICHLEY, VEREB, TURZAI, CLYMER, MARSICO, BAKER,
BARRAR, BEAR, BEYER, BOYD, CIVERA, CREIGHTON, DALLY,
DENLINGER, ELLIS, EVERETT, FREEMAN, GABIG, GEIST, GINGRICH,
GRELL, HARHART, HENNESSEY, HICKERNELL, HUTCHINSON, KAUFFMAN,
KORTZ, KOTIK, MANTZ, MENSCH, MOUL, MOYER, MURT, NAILOR,
M. O'BRIEN, O'NEILL, PHILLIPS, REED, RUBLEY, SAYLOR, SONNEY,
STERN, R. STEVENSON, SWANGER, TRUE, WAGNER, WATSON, FLECK AND
VULAKOVICH, MAY 20, 2008

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, MAY 20, 2008

AN ACT

1 Amending Title 4 (Amusements) of the Pennsylvania Consolidated
2 Statutes, in gaming, further providing for legislative
3 intent; further defining "bureau"; defining "division";
4 further providing for Pennsylvania Gaming Control Board, for
5 applicability of other statutes, for general and specific
6 powers and for code of conduct; repealing provisions relating
7 to licensed gaming entity application appeals from board;
8 further providing for license or permit application hearing
9 process, for board minutes and records, for regulatory
10 authority of board, for collection of fees and fines, for
11 slot machine license fee and for license or permit
12 prohibition; providing for license disqualification criteria;
13 further providing for slot machine license application, for
14 slot machine license application character requirements, for
15 additional slot machine license requirements, for licensing
16 of principals and for licensing of key employees; repealing
17 provisions relating to alternative Category 1 licensing
18 standards; further providing for occupation permit
19 application; repealing provisions relating to alternative
20 manufacturer licensing standards; further providing for slot
21 machine accounting controls and audits, for license renewals,
22 for duty of licensees, key employees and gaming employees,
23 for gross terminal revenue deductions and for itemized budget
24 reporting; repealing provisions relating to investigations
25 and enforcement; establishing and providing for the powers
26 and duties of the Division of Gaming Enforcement; providing
27 for criminal investigations and proceedings, for inspection,
28 seizure and warrants and for information sharing and

1 enforcement referral; further providing for prohibited acts
2 and penalties and for duty to provide certain information;
3 and repealing provisions relating to exclusive jurisdiction
4 of Supreme Court.

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

7 Section 1. Section 1102 of Title 4 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 1102. Legislative intent.

10 The General Assembly recognizes the following public policy
11 purposes and declares that the following objectives of the
12 Commonwealth are to be served by this part:

13 (1) The primary objective of this part to which all
14 other objectives and purposes are secondary is to protect the
15 public through the regulation and policing of all activities
16 involving gaming and practices that continue to be unlawful.
17 This can only be accomplished under a system of control and
18 regulation that ensures, so far as practicable, the exclusion
19 from participation therein of persons with known criminal
20 records, habits or associations and the exclusion or removal
21 from any positions of authority or responsibility within
22 limited gaming operations and establishments of any persons
23 known to be so deficient in business probity, either
24 generally or with specific reference to limited gaming, as to
25 create or enhance the dangers of unsound, unfair or illegal
26 practices, methods and activities in the conduct of limited
27 gaming or the carrying on of the business and financial
28 arrangements incident thereto.

29 (1.1) Since limited gaming operations are especially
30 sensitive and in need of public control and supervision, and
31 since it is vital to the interests of the Commonwealth to

1 prevent entry, directly or indirectly, into limited gaming
2 operations or the ancillary industries regulated by this part
3 of persons who have pursued economic gains in an occupational
4 manner or context which are in violation of the criminal or
5 civil laws of this Commonwealth, the regulatory and
6 investigatory powers and duties shall be exercised by the
7 Division of Gaming Enforcement of the Office of Attorney
8 General, the Pennsylvania State Police and the Pennsylvania
9 Gaming Control Board to the fullest extent consistent with
10 law to avoid entry of such persons into the limited gaming
11 operations or the ancillary industries regulated by this
12 part.

13 (2) The authorization of limited gaming by the
14 installation and operation of slot machines as authorized in
15 this part is intended to enhance live horse racing, breeding
16 programs, entertainment and employment in this Commonwealth.

17 (3) The authorization of limited gaming is intended to
18 provide a significant source of new revenue to the
19 Commonwealth to support property tax relief, wage tax
20 reduction, economic development opportunities and other
21 similar initiatives.

22 (4) The authorization of limited gaming is intended to
23 positively assist the Commonwealth's horse racing industry,
24 support programs intended to foster and promote horse
25 breeding and improve the living and working conditions of
26 personnel who work and reside in and around the stable and
27 backside areas of racetracks.

28 (5) The authorization of limited gaming is intended to
29 provide broad economic opportunities to the citizens of this
30 Commonwealth and shall be implemented in such a manner as to

1 prevent possible monopolization by establishing reasonable
2 restrictions on the control of multiple licensed gaming
3 facilities in this Commonwealth.

4 (6) The authorization of limited gaming is intended to
5 enhance the further development of the tourism market
6 throughout this Commonwealth, including, but not limited to,
7 year-round recreational and tourism locations in this
8 Commonwealth.

9 (7) Participation in limited gaming authorized under
10 this part by any licensee or permittee shall be deemed a
11 privilege, conditioned upon the proper and continued
12 qualification of the licensee or permittee and upon the
13 discharge of the affirmative responsibility of each licensee
14 to provide the regulatory and investigatory authorities of
15 the Commonwealth with assistance and information necessary to
16 assure that the policies declared by this part are achieved.

17 (8) Strictly monitored and enforced control over all
18 limited gaming authorized by this part shall be provided
19 through regulation, licensing and appropriate enforcement
20 actions of specified locations, persons, associations,
21 practices, activities, licensees and permittees[.] by the
22 Pennsylvania Gaming Control Board, the Division of Gaming
23 Enforcement of the Office of Attorney General and the
24 Pennsylvania State Police.

25 (9) Strict financial monitoring and controls shall be
26 established and enforced by all licensees or permittees.

27 (10) The public interest of the citizens of this
28 Commonwealth and the social effect of gaming shall be taken
29 into consideration in any decision or order made pursuant to
30 this part.

(11) It is necessary to maintain the integrity of the regulatory control and legislative oversight over the operation of slot machines in this Commonwealth; to prevent the actual or appearance of corruption that may result from large campaign contributions; ensure the bipartisan administration of this part; and avoid actions that may erode public confidence in the system of representative government.

Section 2. The definition of "bureau" in section 1103 of Title 4 is amended and the section is amended by adding a definition to read:

§ 1103. Definitions.

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

* * *

["Bureau." The Bureau of Investigations and Enforcement of the Pennsylvania Gaming Control Board.]

* * *

"Division." The Division of Gaming Enforcement of the Office of Attorney General.

* * *

Section 3. Section 1201(c), (d), (h)(5), (k) and (m)(3) of Title 4 are amended, subsection (h) is amended by adding a paragraph and the section is amended by adding a subsection to read:

§ 1201. Pennsylvania Gaming Control Board established.

* * *

[(c) Initial appointments to board.--

(1) Gubernatorial appointees initially appointed under subsection (b)(1) shall serve an initial term of one, two and

1 three years respectively as designated by the Governor at the
2 time of appointment and until their successors are appointed
3 and qualified.

4 (2) Legislative appointees initially appointed under
5 subsection (b)(2) shall serve until the third Tuesday in
6 January 2007 and until their successors are appointed and
7 qualified.

8 (3) An appointment to fill a vacancy created by a member
9 appointed in accordance with paragraph (1) or (2) shall be
10 for the remainder of the unexpired term.]

11 (d) Terms of office.--[Upon the expiration of a term of a
12 member appointed under subsection (c), the] The following shall
13 apply:

14 (1) The term of office of a gubernatorial appointee
15 shall be three years and until a successor is appointed and
16 qualified.

17 (2) The term of office of a legislative appointee shall
18 be two years and until a successor is appointed and
19 qualified.

20 (3) A legislative appointee shall serve no more than
21 three full consecutive terms.

22 (4) A gubernatorial appointee shall serve no more than
23 two full consecutive terms.

24 (5) An appointment to fill a vacancy shall be for the
25 remainder of the unexpired term.

26 (6) A member appointed to fill a vacancy under paragraph
27 (3) may serve three full terms following the expiration of
28 the term related to the vacancy.

29 (7) A member appointed to fill a vacancy under paragraph
30 (4) may serve two full terms following the expiration of the

term related to the vacancy.

(d.1) Quorum.--Four members of the board shall constitute a quorum.

* * *

(h) Qualifications and restrictions.--

* * *

(5) [No] Except as set forth in subsection (i), no member shall be paid or receive any fee or other compensation other than salary and expenses provided by law for any activity related to the duties or authority of the board.

[Nothing in this part shall prohibit a member from engaging in any employment or receiving any compensation for such employment that is not connected to or incompatible with his service as a member of the board.]

(5.1) Each member shall devote the member's entire time and attention to the member's duties and shall not hold any office or position or be engaged in any employment or receive any compensation for such employment.

* * *

(k) Appointments.--[The appointing authorities shall make their initial appointments within 60 days of the effective date of this part.] No appointment shall be final until receipt by the appointing authority of the required background investigation of the appointee by the Pennsylvania State Police which shall be completed within 30 days. No person who has been convicted in any domestic or foreign jurisdiction of a felony, infamous crime or gaming offense shall be appointed to the board.

* * *

(m) Employment requirements.--

1 * * *

2 (3) The board shall obtain fingerprints and photographs
3 for each prospective employee consistent with the standards
4 adopted by the division in consultation with the Pennsylvania
5 State Police.

6 * * *

7 Section 4. Section 1201.1 of Title 4 is amended to read:

8 § 1201.1. Applicability of other statutes.

9 (a) General rule.--The following acts shall apply to the
10 board:

11 (1) The act of June 21, 1957 (P.L.390, No.212), referred
12 to as the Right-to-Know Law.

13 (2) The act of July 19, 1957 (P.L.1017, No.451), known
14 as the State Adverse Interest Act.

15 (3) The provisions of 65 Pa.C.S. Chs. 7 (relating to
16 open meetings) and 11 (relating to ethics standards and
17 financial disclosure).

18 (b) Status of board.--

19 (1) The board shall be considered an independent agency
20 for the purposes of the following:

21 (i) 62 Pa.C.S. Pt. I (relating to Commonwealth
22 Procurement Code). The expediting of the payment of
23 revenue to the Commonwealth shall not be grounds for an
24 emergency procurement by the board.

25 (ii) The act of October 15, 1980 (P.L.950, No.164),
26 known as the Commonwealth Attorneys Act.

27 (2) The board shall be considered an agency for the
28 purposes of the following:

29 (i) The act of July 31, 1968 (P.L.769, No.240),
30 referred to as the Commonwealth Documents Law.

(ii) The act of June 25, 1982 (P.L.633, No.181),
known as the Regulatory Review Act.

(iii) The provisions of 2 Pa.C.S. (relating to
administrative law and procedure).

Section 5. Section 1202(a)(6) and (b)(7), (9), (10), (23),
(25) and (28) of Title 4 are amended and subsection (b) is
amended by adding a paragraph to read:

§ 1202. General and specific powers.

(a) General powers.--

* * *

[(6) A request for proposal to conduct investigations of
employees and applicants under this part shall include a
requirement that an offeror provide the number of employees
of the offeror who will be engaged in the conduct of
investigations and who are residents of this Commonwealth and
annuitants of a Federal, State or local law enforcement
agency. Preference shall be given to an offeror with a
substantial number of employees who will be engaged in the
conduct of investigations and who are residents of this
Commonwealth and annuitants of a Federal, State or local law
enforcement agency.]

(b) Specific powers.--The board shall have the specific
power and duty:

* * *

(7) To administer oaths, examine witnesses and issue
subpoenas compelling the attendance of witnesses or the
production of documents and records or other evidence[.] and
to order any person to answer a question or questions or
produce evidence of any kind and confer immunity as provided
in this paragraph. If, in the course of any investigation or

1 hearing conducted under this part, a person refuses to answer
2 a question or produce evidence on the ground that the person
3 will be exposed to criminal prosecution thereby, then in
4 addition to any other remedies or sanctions provided for by
5 this part, the board may, by resolution of three of its
6 members and after the written approval of the Attorney
7 General, issue an order to answer or to produce evidence with
8 immunity. If, upon issuance of an order, the person complies
9 with the order, the person shall be immune from having a
10 responsive answer given by the person or responsive evidence
11 produced by the person, or evidence derived therefrom, used
12 to expose the person to criminal prosecution, except that the
13 person may nevertheless be prosecuted for any perjury
14 committed in the answer or in producing the evidence or for
15 contempt for failing to give an answer or produce evidence in
16 accordance with the order of the board. Any answer given or
17 evidence produced shall be admissible against the person upon
18 any criminal investigation, proceeding or trial against the
19 person for perjury, upon any investigation, proceeding or
20 trial against the person for contempt or in any manner
21 consistent with State and constitutional law. The provisions
22 of this paragraph shall apply to designated officers and
23 employees.

24 * * *

25 (9) To require background investigations on applicants,
26 licensees, principals, key employees or permittees under the
27 jurisdiction of the board to be conducted by the division.

28 [(10) To enter into an agreement with the Pennsylvania
29 State Police for the reimbursement of actual costs as
30 approved by the board to the Pennsylvania State Police for

1 the investigations. Investigations shall include information
2 in the possession of the Attorney General.]

3 * * *

4 (23) The board shall not issue or renew a license or
5 permit unless it is satisfied that the applicant has
6 demonstrated, by clear and convincing evidence, that the
7 applicant is a person of good character, honesty and
8 integrity and is a person whose prior activities, criminal
9 record, if any, reputation, habits and associations do not
10 pose a threat to the public interest or the effective
11 regulation and control of slot machine operations or create
12 or enhance the danger of unsuitable, unfair or illegal
13 practices, methods and activities in the conduct of slot
14 machine operations or the carrying on of the business and
15 financial arrangements incidental thereto.

16 (23.1) If an application or renewal of a license is
17 denied under paragraph (12), (13), (14), (15) or (16), the
18 board shall prepare and file an order denying the application
19 with general reasons for the denial and, if requested by the
20 applicant, shall further prepare and file a statement of the
21 reasons for the denial, including the specific findings of
22 fact.

23 * * *

24 [(25) To promulgate regulations pertaining to the
25 operation of the bureau to insure separation of functions
26 between the bureau and the board. The board shall provide the
27 employees necessary to the bureau for enforcement of this
28 part.]

29 * * *

30 (28) To prepare and, through the Governor, submit

1 annually to the General Assembly an itemized budget
2 consistent with Article VI of the act of April 9, 1929
3 (P.L.177, No.175), known as The Administrative Code of 1929,
4 consisting of the amounts necessary to be appropriated by the
5 General Assembly out of the accounts established under
6 section 1401 (relating to slot machine licensee deposits)
7 required to meet the obligations accruing during the fiscal
8 period beginning July 1 of the following year. The budget
9 shall include itemized recommendations for [the Attorney
10 General,] the department [and the Pennsylvania State Police]
11 as to the amount needed to meet [their] its obligations under
12 this part.

13 * * *

14 Section 6. Section 1202.1(e) of Title 4 is amended to read:

15 § 1202.1. Code of conduct.

16 * * *

17 (e) Definitions.--As used in this section, the following
18 words and phrases shall have the meanings given to them in this
19 subsection:

20 "Ex parte communication." An off-the-record communication by
21 a member or employee of the board regarding the merits of or any
22 fact in issue relating to a pending matter before the board or
23 which may reasonably be expected to come before the board in a
24 contested on-the-record proceeding. The term shall not include
25 off-the-record communications by or between a member or employee
26 of the board, division, Department of Revenue, Pennsylvania
27 State Police[, Attorney General] or other law enforcement
28 official prior to the beginning of the proceeding solely for the
29 purpose of seeking clarification or correction to evidentiary
30 materials intended for use in the proceedings.

1 "Licensed entity representative." A person acting on behalf
2 of or representing the interest of any applicant, licensee,
3 permittee or registrant, including an attorney, agent or
4 lobbyist, regarding any matter which may reasonably be expected
5 to come before the board.

6 Section 7. Section 1204 of Title 4 is repealed:

7 [§ 1204. Licensed gaming entity application appeals from board.

8 The Supreme Court of Pennsylvania shall be vested with
9 exclusive appellate jurisdiction to consider appeals of any
10 final order, determination or decision of the board involving
11 the approval, issuance, denial or conditioning of a slot machine
12 license. Notwithstanding the provisions of 2 Pa.C.S. Ch. 7
13 Subch. A (relating to judicial review of Commonwealth agency
14 action) and 42 Pa.C.S. § 763 (relating to direct appeals from
15 government agencies), the Supreme Court shall affirm all final
16 orders, determinations or decisions of the board involving the
17 approval, issuance, denial or conditioning of a slot machine
18 license unless it shall find that the board committed an error
19 of law or that the order, determination or decision of the board
20 was arbitrary and there was a capricious disregard of the
21 evidence.]

22 Section 8. Sections 1205(a), 1206, 1207(2), (12) and (14)
23 and 1208(1) of Title 4 are amended to read:

24 § 1205. License or permit application hearing process; public
25 input hearings.

26 (a) General rule.--The board's consideration and resolution
27 of all license or permit applications shall be conducted in
28 accordance with 2 Pa.C.S. (relating to administrative law and
29 procedure) [or with procedures adopted by order of the board].
30 Notwithstanding the requirements of 2 Pa.C.S. §§ 504 (relating

1 to hearing and record) and 505 (relating to evidence and cross-
2 examination) as they relate to the conduct of oral hearings, the
3 board may adopt procedures to provide parties before it
4 concerning permits with a documentary hearing, and the board may
5 resolve disputed material facts without conducting an oral
6 hearing where constitutionally permissible. The board shall not
7 issue or renew a license unless it conducts a public hearing
8 concerning the qualifications of an applicant or a renewal
9 application.

10 * * *

11 § 1206. Board meetings, minutes and records.

12 (a.1) Meetings.--

13 (1) All meeting of the board shall be conducted in
14 accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings).

15 (2) Notwithstanding 65 Pa.C.S. § 708(b) (relating to
16 executive sessions), executive sessions of the board may be
17 held during an open meeting or at the conclusion of an open
18 meeting. Where the board holds an executive session, the
19 chairman of the board shall announce during the open meeting
20 immediately prior to the executive session the reasons with
21 reference to the appropriate paragraph of 65 Pa.C.S. § 708(a)
22 for holding the executive session. If, during the executive
23 session, additional matters that were not announced by the
24 chairman arise, the chairman shall reconvene the open meeting
25 to announce the additional matters with reference to the
26 appropriate paragraph of 65 Pa.C.S. § 708(a).

27 (b) Record of proceedings.--The board shall cause to be made
28 and kept a record of all proceedings held at public meetings of
29 the board. The verbatim transcript of those proceedings shall be
30 the property of the board and shall be prepared by the board

1 upon the request of any board member or upon the request of any
2 other person and the payment by that person of the costs of
3 preparation.

4 (d) Applicant information.--

5 (1) The board shall maintain a list of all applicants
6 for licenses and permits. The list shall include a record of
7 all actions taken with respect to each applicant. The list
8 shall be open to public inspection during the normal business
9 hours of the board.

10 (2) Information under paragraph (1) regarding any
11 applicant whose license or permit has been denied, revoked or
12 not renewed shall be removed from such list after seven years
13 from the date of the action.

14 (e) Other files and records.--The board shall maintain such
15 other files and records as it may deem appropriate.

16 (f) Confidentiality of information.--All information
17 submitted by an applicant pursuant to section 1310(a) (relating
18 to slot machine license application character requirements) or
19 obtained by the board or the [bureau] division as part of a
20 background investigation from any source shall be considered
21 confidential. Except as provided in section [1517(f) (relating
22 to investigation and enforcement)] 1517.1 (relating to civil
23 enforcement), 1517.3 (relating to criminal investigation and
24 proceedings), 1517.4 (relating to inspection, seizure and
25 warrants) and 1517.5 (relating to information sharing and
26 enforcement referral), the information shall be withheld from
27 public disclosure in whole or in part, except that any
28 information shall be released upon the lawful order of a court
29 of competent jurisdiction or, with the approval of the Attorney
30 General, to a duly authorized law enforcement agency or shall be

1 released to the public, in whole or in part, to the extent that
2 such release is requested by an applicant and does not otherwise
3 contain confidential information about another person. The board
4 may not require any applicant to waive any confidentiality
5 provided for in this subsection as a condition for the approval
6 of a license or any other action of the board. Any person who
7 violates this subsection shall be administratively disciplined
8 by discharge, suspension or other formal disciplinary action as
9 the board deems appropriate.

10 (g) Notice.--Notice of the contents of any information,
11 except to a duly authorized law enforcement agency pursuant to
12 this section, shall be given to any applicant or licensee in a
13 manner prescribed by the rules and regulations adopted by the
14 board.

15 (h) Information held by department.--Files, records, reports
16 and other information in the possession of the department
17 pertaining to licensees shall be made available to the board as
18 may be necessary to the effective administration of this part.

19 § 1207. Regulatory authority of board.

20 The board shall have the power and its duties shall be to:

21 * * *

22 (2) Restrict access to confidential information in the
23 possession of the board which has been obtained under this
24 part and ensure that the confidentiality of information is
25 maintained and protected. Records shall be retained by the
26 board for seven years. The restrictions shall not apply to
27 the division.

28 * * *

29 [(12) Upon request, provide background investigation
30 reports of applicants for licenses and permits for use at

1 racetracks to the State Horse Racing Commission and the State
2 Harness Racing Commission.]

3 * * *

4 (14) Consult with members of the Pennsylvania State
5 Police, the [Office of Attorney General] division, the
6 department and such other persons it deems necessary for
7 advice regarding the various acts of the powers and duties
8 imposed on it under this part and its jurisdiction over the
9 authorization and operation of slot machines and licensed
10 facilities.

11 * * *

12 § 1208. Collection of fees and fines.

13 The board has the following powers and duties:

14 (1) To levy and collect fees from the various
15 applicants, licensees and permittees to fund the operations
16 of the board. The fees shall be deposited into the State
17 Gaming Fund as established in section 1403 (relating to
18 establishment of State Gaming Fund and net slot machine
19 revenue distribution) and distributed to the board upon
20 appropriation by the General Assembly. In addition to the
21 fees set forth in sections 1209 (relating to slot machine
22 license fee) and 1305 (relating to Category 3 slot machine
23 license), the board shall assess and collect fees as follows:

24 (i) Supplier licensees shall pay a fee of \$25,000
25 upon the issuance of a license and \$10,000 for the annual
26 renewal of a supplier license.

27 (ii) Manufacturer licensees shall pay a fee of
28 \$50,000 upon the issuance of a license and \$25,000 for
29 the annual renewal of a manufacturer license.

30 (iii) Each application for a slot machine license,

supplier license or manufacturer license must be accompanied by a nonrefundable fee set by the board for the cost of each individual requiring a background investigation. The reasonable and necessary costs and expenses incurred in any background investigation or other investigation or proceeding concerning any applicant, licensee, permittee or registrant shall be reimbursed to the board or the division, as appropriate, by those persons.

* * *

Section 9. Section 1209(b) and (f) of Title 4 are amended and the section is amended by adding a subsection to read:
§ 1209. Slot machine license fee.

* * *

(b) Term.--A slot machine license[, after payment of the fee,] shall be [in effect] for a period of one year unless suspended[, or revoked [or not renewed] by the board upon good cause consistent with the license requirements as provided for in this part. [Slot machine licensees shall be required to update the information in their initial applications annually, and the license of a licensee in good standing shall be updated and renewed annually. As to the renewal of a license, no additional license fee pursuant to subsection (a) shall be required.]

* * *

(f) Return of slot machine license fee.--

(1) [The] Of the entire one-time slot machine license fee of \$50,000,000 for each Category 1 and Category 2 slot machine license, \$5,000,000 shall be returned to each licensee in the event section 1201 (relating to Pennsylvania

1 Gaming Control Board established), 1202 (relating to general
2 and specific powers) or 1307 (relating to number of slot
3 machine licenses) is amended or otherwise altered by an act
4 of the General Assembly within five years following the
5 initial issuance of any slot machine licenses pursuant to
6 section 1301 (relating to authorized slot machine licenses)
7 to change:

8 (i) the composition of the board;

9 (ii) the number or voting powers of members of the
10 board;

11 (iii) the manner in which members are nominated or
12 appointed to the board;

13 (iv) the length of term for which each member
14 serves;

15 (v) the general regulatory jurisdiction of the board
16 in a manner that impairs or otherwise reduces the board's
17 licensing authority; or

18 (vi) section 1307 to increase the statutory maximum
19 number of permissible licensed facilities.

20 (2) In the event that this part is amended or otherwise
21 altered by an act of the General Assembly as described
22 pursuant to paragraph (1):

23 (i) In the sixth year following the initial issuance
24 of any slot machine licenses pursuant to section 1301, a
25 Category 1 and 2 slot machine licensee shall be entitled
26 to a partial return of the one-time slot machine license
27 fee in the amount of [\$41,666,667] \$4,000,000.

28 (ii) In the seventh year, the licensee shall be
29 entitled to a partial return of the one-time slot machine
30 license fee in the amount of [\$33,333,334] \$3,000,000.

(iii) In the eighth year, the licensee shall be entitled to a partial return of the one-time slot machine license fee in the amount of [\$25,000,000] \$2,000,000.

(iv) In the ninth year, the licensee shall be entitled to a partial return of the one-time slot machine license fee in the amount of [\$16,666,668] \$1,000,000.

[(v) In the tenth year, the licensee shall be entitled to a partial return of the one-time machine license fee in the amount of \$8,333,334.]

In the event that the action described in paragraph (1) occurs in the tenth year or after the expiration of ten years, the licensee shall not be entitled to a return of any portion of the one-time slot machine license fee. Notwithstanding the foregoing, no slot machine licensee shall be entitled to the return of any portion of the fee as a result of any act of the General Assembly insofar as it implements a recommendation made by the board pursuant to a qualified majority vote. In the event a full or partial return of the slot machine license fee imposed pursuant to subsection (a) becomes due pursuant to this subsection, the amount to be returned to any slot machine licensee shall be reduced on a dollar-for-dollar basis by the total accumulated tax credits granted to such licensee pursuant to subsection (c). In no event shall the total amount of the slot machine license fee returned, combined with the total tax credits granted, exceed the amounts set forth in this subsection for any licensee. The total or partial return of the slot machine license fee shall extinguish a licensee's right to claim any further tax credits pursuant to subsection (c).

(g) Renewal.--

(1) Three months prior to expiration of a slot machine

1 license, a slot machine licensee seeking renewal of its
2 license shall submit a renewal application accompanied by a
3 renewal fee of \$10,000,000 to the board.

4 (2) If, after review, the renewal application
5 demonstrates that the slot machine licensee continues to
6 satisfy the slot machine licensing requirements of this part,
7 the board may renew the licensee's slot machine license for a
8 period of one year.

9 (3) If the board receives a complete renewal application
10 but fails to act upon the renewal application prior to the
11 expiration of the slot machine license, the slot machine
12 license shall continue in effect for an additional six-month
13 period or until acted upon by the board, whichever occurs
14 first.

15 Section 10. Section 1213 of Title 4 is amended to read:

16 § 1213. [License or permit] Permit prohibition.

17 No applicant for a [license or] permit under this part,
18 [including principals and key employees,] who has been convicted
19 of a felony or gambling offense in any jurisdiction shall be
20 issued a [license or] permit unless 15 years has elapsed from
21 the date of expiration of the sentence for the offense. When
22 determining whether to issue a [license or] permit to an
23 applicant who has been convicted in any jurisdiction of a felony
24 or gambling offense, the board shall consider the following
25 factors:

26 (1) The nature and duties of the applicant's position
27 with the licensed entity.

28 (2) The nature and seriousness of the offense or
29 conduct.

30 (3) The circumstances under which the offense or conduct

1 occurred.

2 (4) The age of the applicant when the offense or conduct
3 was committed.

4 (5) Whether the offense or conduct was an isolated or a
5 repeated incident.

6 (6) Any evidence of rehabilitation, including good
7 conduct in the community, counseling or psychiatric treatment
8 received and the recommendation of persons who have
9 substantial contact with the applicant.

10 Section 11. Title 4 is amended by adding a section to read:

11 § 1213.1. License disqualification criteria.

12 (a) Disqualification criteria.--The board shall deny a
13 license to an applicant that is disqualified on the basis of any
14 of the following criteria:

15 (1) The failure of the applicant to prove by clear and
16 convincing evidence that the applicant is qualified in
17 accordance with the provisions of this part.

18 (2) The failure of the applicant to provide information,
19 documentation and assurances required by this part or
20 requested by the board, department, division or Pennsylvania
21 State Police, or failure of the applicant to reveal any fact
22 material to qualification, or the supplying of information
23 which is untrue or misleading as to a material fact
24 pertaining to the qualification criteria.

25 (3) The conviction of the applicant of a felony offense
26 in any jurisdiction.

27 (4) Current prosecution or pending charges in any
28 jurisdiction of the applicant for any felony or gaming
29 offense. However, at the request of the applicant, the board
30 may defer decision upon the application during the pendency

1 of the charge.

2 (5) The pursuit by the applicant of economic gain in an
3 occupational manner or context which is in violation of the
4 criminal or civil laws of this Commonwealth or any other
5 jurisdiction, if the pursuit creates a reasonable belief that
6 the participation of the applicant in limited gaming
7 operations would be inimical to the policies of this part or
8 to legalized gaming in this Commonwealth.

9 (6) The identification of the applicant as a career
10 offender or a member of a career offender cartel or an
11 associate of a career offender or career offender cartel in a
12 manner which creates a reasonable belief that the association
13 is of a nature as to be inimical to the policy of this part
14 and to gaming operations.

15 (7) The commission by the applicant of any act or acts
16 which would constitute any felony or gaming offense, even if
17 the conduct has not been or may not be prosecuted under the
18 criminal laws of this Commonwealth or any other jurisdiction
19 or has been prosecuted under the criminal laws of this
20 Commonwealth or any other jurisdiction and the prosecution
21 has been terminated in a manner other than with a conviction.

22 (8) Contumacious defiance by the applicant of any
23 legislative investigatory body or other official
24 investigatory body of the United States or of any state when
25 the investigatory body is engaged in the investigation of
26 crimes relating to gaming, official corruption or organized
27 crime activity.

28 (b) Definitions.--As used in this section, the following
29 words and phrases shall have the meanings given to them in this
30 subsection:

1 "Career offender." Any person whose behavior is pursued in
2 an occupational manner or context for the purpose of economic
3 gain, utilizing methods that are violations of the criminal laws
4 of this Commonwealth or any other jurisdiction.

5 "Career offender cartel." Any group of persons who operate
6 together as career offenders.

7 "Occupational manner or context." The systematic planning,
8 administration, management or execution of an activity for
9 financial gain.

10 Section 12. Section 1309(a)(9) of Title 4 is amended to
11 read:

12 § 1309. Slot machine license application.

13 (a) General requirements.--In addition to any other
14 information required under this part or as may be required by
15 the board, the application for any category of slot machine
16 license shall include at a minimum:

17 * * *

18 (9) The consent to conduct a background investigation by
19 the [board] division, the scope of which shall be determined
20 by the [board] division in its discretion consistent with the
21 provisions of this part, and a release signed by all persons
22 subject to the investigation of all information required to
23 complete the investigation.

24 * * *

25 Section 13. Section 1310(b) of Title 4 is amended and the
26 section is amended by adding a subsection to read:

27 § 1310. Slot machine license application character
28 requirements.

29 * * *

30 (b) Civil judgments and [law enforcement] gaming or casino

1 enforcement or control agency information.--Each applicant shall
2 notify the division and the board of any civil judgments
3 obtained against the applicant pertaining to antitrust or
4 security regulation laws of the Federal Government, this
5 Commonwealth or any other state, jurisdiction, province or
6 country. In addition, each applicant shall produce a letter of
7 reference from [law enforcement] gaming or casino enforcement or
8 control agencies having jurisdiction in the applicant's place of
9 residence and principal place of business, which letter of
10 reference shall indicate that the [law enforcement] gaming or
11 casino enforcement or control agencies do not have any pertinent
12 information concerning the applicant or, if the law enforcement
13 agency does have information pertaining to the applicant, shall
14 specify the nature and content of that information. If no
15 letters are received within 30 days of the request, the
16 applicant may submit a statement under oath which is subject to
17 the penalty for false swearing under 18 Pa.C.S. § 4903 (relating
18 to false swearing) that the applicant is or was during the
19 period the activities were conducted in good standing with the
20 gaming or casino enforcement or control agency.

21 * * *

22 (d) Freedom of Information Act.--The applicant shall be
23 required to apply to the Federal Government regarding agency
24 records pursuant to the Freedom of Information Act (Public Law
25 89-554, 5 U.S.C. § 552) pertaining to the applicant and provide
26 the division with the complete record received from the Federal
27 Government.

28 Section 14. Sections 1311(g) and (h), 1311.1(b) and
29 1311.2(b) of Title 4 are amended to read:
30 § 1311. Additional slot machine license requirements.

1 * * *

2 (g) Ongoing duty.--A person applying for a license, permit
3 or other authorization under this part shall have the continuing
4 duty to provide information required by the board or the
5 [bureau] division and to cooperate in any inquiry or
6 investigation.

7 (h) Criminal history record check.--The [board] division
8 shall conduct a criminal history record check on any person for
9 whom a waiver is granted under this section.

10 § 1311.1. Licensing of principals.

11 * * *

12 (b) Application.--A principal license application shall be
13 in a form prescribed by the board and shall include the
14 following:

15 (1) Verification of status as a principal from a slot
16 machine licensee, manufacturer licensee or supplier licensee.

17 (2) A description of responsibilities as a principal.

18 (3) All releases necessary to obtain information from
19 governmental agencies, employers and other organizations.

20 (4) Fingerprints, which shall be submitted to the
21 Pennsylvania State Police.

22 (5) A photograph that meets the standards of the
23 Commonwealth Photo Imaging Network.

24 (6) Details relating to a similar license, permit or
25 other authorization obtained in another jurisdiction.

26 (6.1) Data pertaining to family, habits, reputation,
27 criminal and arrest record, business activities, financial
28 affairs and business, professional and personal associates
29 covering at least the ten-year period immediately preceding
30 the application.

1 (7) Any additional information required by the board.

2 * * *

3 § 1311.2. Licensing of key employees.

4 * * *

5 (b) Application.--A key employee license application shall
6 be in a form prescribed by the board and shall include the
7 following:

8 (1) Verification of status as a key employee from a slot
9 machine licensee, manufacturer licensee or supplier licensee.

10 (2) A description of employment responsibilities.

11 (3) All releases necessary to obtain information from
12 governmental agencies, employers and other organizations.

13 (4) Fingerprints, which shall be submitted to the
14 Pennsylvania State Police.

15 (5) A photograph that meets the standards of the
16 Commonwealth Photo Imaging Network.

17 (6) Details relating to a similar license, permit or
18 other authorization obtained in another jurisdiction.

19 (6.1) Data pertaining to family, habits, reputation,
20 criminal and arrest record, business activities, financial
21 affairs and business, professional and personal associates
22 covering at least the ten-year period immediately preceding
23 the application.

24 (7) Any additional information required by the board.

25 * * *

26 Section 15. Section 1314 of Title 4 is repealed:

27 [§ 1314. Alternative Category 1 licensing standards.

28 (a) Determination.--The board may determine whether the
29 licensing standards of another jurisdiction within the United
30 States or Canada in which an applicant, its affiliate,

1 intermediary, subsidiary or holding company for a Category 1
2 slot machine license is similarly licensed are comprehensive and
3 thorough and provide similar adequate safeguards as those
4 required by this part. If the board makes that determination, it
5 may issue a slot machine license to an applicant who holds a
6 slot machine license in such other jurisdiction after conducting
7 an evaluation of the information relating to the applicant from
8 such other jurisdictions, as updated by the board, and
9 evaluating other information related to the applicant received
10 from that jurisdiction and other jurisdictions where the
11 applicant may be licensed, the board may incorporate such
12 information in whole or in part into its evaluation of the
13 applicant.

14 (b) Abbreviated process.--In the event an applicant for a
15 slot machine license is licensed in another jurisdiction, the
16 board may determine to use an alternate process requiring only
17 that information determined by the board to be necessary to
18 consider the issuance of a license, including financial
19 viability of the licensee, to such an applicant. Nothing in this
20 section shall be construed to waive any fees associated with
21 obtaining a license through the normal application process.]

22 Section 16. Section 1318(b)(3) of Title 4 is amended to
23 read:

24 § 1318. Occupation permit application.

25 * * *

26 (b) Requirements.--The application for an occupation permit
27 shall include, at a minimum:

28 * * *

29 (3) The criminal history record of the person, as well
30 as the person's consent for the [Pennsylvania State Police]

1 division to conduct a background investigation.

2 * * *

3 Section 17. Section 1319 of Title 4 is repealed:

4 [§ 1319. Alternative manufacturer licensing standards.

5 (a) General rule.--The board may determine whether the
6 licensing standards of another jurisdiction within the United
7 States in which an applicant for a manufacturer license is
8 similarly licensed are comprehensive and thorough and provide
9 similar adequate safeguards as those required by this part. If
10 the board makes that determination, it may issue a manufacturer
11 license to an applicant who holds a similar manufacturer license
12 in such other jurisdiction after conducting an evaluation of the
13 information relating to the applicant from such other
14 jurisdictions, as updated by the board, and evaluating other
15 information related to the applicant received from that
16 jurisdiction and other jurisdictions where the applicant may be
17 licensed, the board may incorporate such information in whole or
18 in part into its evaluation of the applicant.

19 (b) Abbreviated process.--In the event an applicant for a
20 slot machine manufacturer license is licensed in another
21 jurisdiction, the board may determine to use an alternate
22 process requiring only that information determined by the board
23 to be necessary to consider the issuance of a license, including
24 financial viability of the licensee, to such an applicant.
25 Nothing in this section shall be construed to waive any fees
26 associated with obtaining a license through the normal
27 application process.]

28 Section 18. Sections 1322(a), (b)(2) and (c), 1326(b), 1331,
29 1402(a)(4) and 1402.1 of Title 4 are amended to read:

30 § 1322. Slot machine accounting controls and audits.

1 (a) Approval.--Except as otherwise provided by this part,
2 each slot machine license applicant shall, in addition to
3 obtaining a slot machine license, obtain approval from the board
4 in consultation with the department, the division and the
5 Pennsylvania State Police of its proposed site plans and
6 internal control systems and audit protocols prior to the
7 installation and operation of slot machines at the licensed
8 facility.

9 (b) Minimum requirements.--At a minimum, the applicant's or
10 person's proposed internal controls and audit protocols shall:

11 * * *

12 (2) Provide for reliable records, accounts and reports
13 of any financial event that occurs in the operation of a slot
14 machine, including reports to the board, the division and the
15 Pennsylvania State Police related to the slot machines.

16 * * *

17 (c) Internal control.--Each slot machine license applicant
18 shall submit to the board [and], the division, the Pennsylvania
19 State Police and the department, in such manner as the board
20 shall require, a description of its administrative and
21 accounting procedures in detail, including its written system of
22 internal control. Each written system of internal control shall
23 include:

24 (1) Records of direct and indirect ownership in the
25 proposed slot machine licensee, its affiliate, intermediary,
26 subsidiary or holding company.

27 (2) An organizational chart depicting appropriate
28 segregation of functions and responsibilities.

29 (3) A description of the duties and responsibilities of
30 each position shown on the organizational chart.

1 (4) A detailed narrative description of the
2 administrative and accounting procedures designed to satisfy
3 the requirements of this section.

4 (5) Record retention policy.

5 (6) Procedure to ensure that assets are safeguarded,
6 including mandatory count procedures.

7 (7) A statement signed by the chief financial officer of
8 the proposed licensed gaming entity or other competent person
9 and the chief executive officer of the proposed licensed
10 gaming entity or other competent person attesting that the
11 officer believes, in good faith, that the system satisfies
12 the requirements of this section.

13 (8) Any other item that the board may require in its
14 discretion.

15 § 1326. License renewals.

16 * * *

17 (b) Revocation or failure to renew.--In addition to any
18 other sanctions the board may impose under this part, the board
19 may at its discretion suspend, revoke or deny renewal of any
20 permit or license issued under this part if it receives any
21 information from any source that the applicant or any of its
22 officers, directors, owners or key employees is in violation of
23 any provision of this part, that the applicant has furnished the
24 board with false or misleading information or that the
25 information contained in the applicant's initial application or
26 any renewal application is no longer true and correct. The board
27 shall suspend, revoke or deny renewal of any permit or license
28 where the applicant is in violation of any of the criteria set
29 forth in sections 1213 (relating to permit prohibition) and
30 1213.1 (relating to license disqualification criteria). In the

1 event of a revocation or failure to renew, the applicant's
2 authorization to conduct the previously approved activity shall
3 immediately cease, and all fees paid in connection therewith
4 shall be deemed to be forfeited. In the event of a suspension,
5 the applicant's authorization to conduct the previously approved
6 activity shall immediately cease until the board has notified
7 the applicant that the suspension is no longer in effect.

8 § 1331. Duty of licensees, key employees and gaming employees.

9 Any licensee, key employee or gaming employee shall have the
10 duty to:

11 (1) provide any assistance or information required by
12 the board, the division, the department or the Pennsylvania
13 State Police and to cooperate in any inquiry, investigation
14 or hearing;

15 (2) consent to inspections, searches and seizures;

16 (3) inform the board of any actions which they believe
17 would constitute a violation of this part; and

18 (4) inform the board of any arrests for any violations
19 of offenses enumerated under 18 Pa.C.S. (relating to crimes
20 and offenses).

21 § 1402. Gross terminal revenue deductions.

22 (a) Deductions.--After determining the appropriate
23 assessments for each slot machine licensee, the department shall
24 determine costs, expenses or payments from each account
25 established under section 1401 (relating to slot machine
26 licensee deposits). The following costs and expenses shall be
27 transferred to the appropriate agency upon appropriation by the
28 General Assembly:

29 * * *

30 (4) The costs and expenses to be incurred by the

1 Pennsylvania State Police and the Office of Attorney General
2 and not otherwise reimbursed under this part in carrying out
3 their respective responsibilities under this part based upon
4 a budget submitted by the Pennsylvania State Police and the
5 Attorney General [to and approved by the board].

6 * * *

7 § 1402.1. Itemized budget reporting.

8 The [board, department,] Pennsylvania State Police and the
9 Attorney General shall prepare and annually submit to the
10 chairman of the Appropriations Committee of the Senate and the
11 chairman of the Appropriations Committee of the House of
12 Representatives an itemized budget consisting of amounts to be
13 appropriated out of the accounts established under section 1401
14 (relating to slot machine licensee deposits) necessary to
15 administer this part.

16 Section 19. Section 1517 of Title 4 is repealed:

17 [§ 1517. Investigations and enforcement.

18 (a) Establishment.--There is hereby established within the
19 board a Bureau of Investigations and Enforcement which shall be
20 independent of the board in matters relating to the enforcement
21 of this part. The bureau shall have the powers and duties set
22 forth in subsection (a.1).

23 (a.1) Powers and duties of bureau.--The Bureau of
24 Investigations and Enforcement shall have the following powers
25 and duties:

26 (1) Enforce the provisions of this part.

27 (2) Investigate and review all applicants and
28 applications for a license, permit or registration.

29 (3) Investigate licensees, permittees, registrants and
30 other persons regulated by the board for noncriminal

1 violations of this part, including potential violations
2 referred to the bureau by the board or other person.

3 (4) Monitor gaming operations to ensure all of the
4 following:

5 (i) Compliance with this part, the act of April 12,
6 1951 (P.L.90, No.21), known as the Liquor Code, and the
7 other laws of this Commonwealth.

8 (ii) The implementation of adequate security
9 measures by a licensed entity.

10 (5) Inspect and examine licensed entities as provided in
11 subsection (e). Inspections may include the review and
12 reproduction of any document or record.

13 (6) Conduct audits of a licensed entity as necessary to
14 ensure compliance with this part. An audit may include the
15 review of accounting, administrative and financial records,
16 management control systems, procedures and other records
17 utilized by a licensed entity.

18 (7) Refer possible criminal violations to the
19 Pennsylvania State Police. The bureau shall not have the
20 power of arrest.

21 (8) Cooperate in the investigation and prosecution of
22 criminal violations related to this part.

23 (9) Be a criminal justice agency under 18 Pa.C.S. Ch. 91
24 (relating to criminal history record information).

25 (a.2) Office of Enforcement Counsel.--

26 (1) There is established within the bureau an Office of
27 Enforcement Counsel which shall act as the prosecutor in all
28 noncriminal enforcement actions initiated by the bureau under
29 this part and shall have the following powers and duties:

30 (i) Advise the bureau on all matters, including the

1 granting of licenses, permits or registrations, the
2 conduct of background investigations, audits and
3 inspections and the investigation of potential violations
4 of this part.

5 (ii) File recommendations and objections relating to
6 the issuance of licenses, permits and registrations on
7 behalf of the bureau.

8 (iii) Initiate, in its sole discretion, proceedings
9 for noncriminal violations of this part by filing a
10 complaint or other pleading with the board.

11 (2) The director of the Office of Enforcement Counsel
12 shall report to the executive director of the board on
13 administrative matters. The director shall be selected by the
14 board and shall be an attorney admitted to practice before
15 the Pennsylvania Supreme Court.

16 (b) Powers and duties of department.--

17 (1) The department shall at all times have the power of
18 access to examination and audit of any equipment and records
19 relating to all aspects of the operation of slot machines
20 under this part.

21 (2) Notwithstanding the provisions of section 353(f) of
22 the act of March 4, 1971 (P.L.6, No.2), known as the Tax
23 Reform Code of 1971, the department shall supply the board,
24 the bureau, the Pennsylvania State Police and the Office of
25 Attorney General with information concerning the status of
26 delinquent taxes owned by the applicant, licensee or
27 permittee.

28 (c) Powers and duties of the Pennsylvania State Police.--The
29 Pennsylvania State Police shall have the following powers and
30 duties:

1 (1) Promptly conduct background investigations on
2 persons as directed by the board in accordance with the
3 provisions of section 1202 (relating to general and specific
4 powers). The Pennsylvania State Police may contract with
5 other law enforcement annuitants to assist in the conduct of
6 investigations under this paragraph.

7 (3) Initiate proceedings for criminal violations of this
8 part.

9 (4) Provide the board with all information necessary for
10 all actions under this part for all proceedings involving
11 criminal enforcement of this part.

12 (5) Inspect, when appropriate, a licensee's or
13 permittee's person and personal effects present in a licensed
14 facility under this part while that licensee or permittee is
15 present at a licensed facility.

16 (6) Enforce the criminal provisions of this part and all
17 other criminal laws of the Commonwealth.

18 (7) Fingerprint applicants for licenses and permits.

19 (8) Exchange fingerprint data with and receive national
20 criminal history record information from the FBI for use in
21 investigating applications for any license or permit under
22 this part.

23 (9) Receive and take appropriate action on any referral
24 from the board relating to criminal conduct.

25 (10) Require the production of any information, material
26 and other data from any licensee, permittee or other
27 applicant seeking approval from the board.

28 (11) Conduct administrative inspections on the premises
29 of licensed racetrack or nonprimary location or licensed
30 facility at such times, under such circumstances and to such

1 extent as the bureau determines to ensure compliance with
2 this part and the regulations of the board and, in the course
3 of inspections, review and make copies of all documents and
4 records required by the inspection through onsite observation
5 and other reasonable means to assure compliance with this
6 part and regulations promulgated under this part.

7 (12) Conduct audits or verification of information of
8 slot machine operations at such times, under such
9 circumstances and to such extent as the bureau determines.
10 This paragraph includes reviews of accounting, administrative
11 and financial records and management control systems,
12 procedures and records utilized by a slot machine licensee.

13 (13) A member of the Pennsylvania State Police assigned
14 to duties of enforcement under this part shall not be counted
15 toward the complement as defined in the act of December 13,
16 2001 (P.L.903, No.100), entitled "An act repealing in part a
17 limitation on the complement of the Pennsylvania State
18 Police."

19 (c.1) Powers and duties of Attorney General.--Within the
20 Office of Attorney General, the Attorney General shall establish
21 a gaming unit. The unit shall investigate and institute criminal
22 proceedings as authorized by subsection (d).

23 (d) Criminal action.--

24 (1) The district attorneys of the several counties shall
25 have authority to investigate and to institute criminal
26 proceedings for a violation of this part.

27 (2) In addition to the authority conferred upon the
28 Attorney General under the act of October 15, 1980 (P.L.950,
29 No.164), known as the Commonwealth Attorneys Act, the
30 Attorney General shall have the authority to investigate and,

1 following consultation with the appropriate district
2 attorney, to institute criminal proceedings for a violation
3 of this part. A person charged with a violation of this part
4 by the Attorney General shall not have standing to challenge
5 the authority of the Attorney General to investigate or
6 prosecute the case, and, if any such challenge is made, the
7 challenge shall be dismissed and no relief shall be available
8 in the courts of this Commonwealth to the person making the
9 challenge.

10 (d.1) Regulatory action.--Nothing contained in subsection
11 (d) shall be construed to limit the existing regulatory or
12 investigative authority of an agency or the Commonwealth whose
13 functions relate to persons or matters within the scope of this
14 part.

15 (e) Inspection, seizure and warrants.--

16 (1) The bureau, the department and the Pennsylvania
17 State Police shall have the authority without notice and
18 without warrant to do all of the following in the performance
19 of their duties:

20 (i) Inspect and examine all premises where slot
21 machine operations are conducted, gaming devices or
22 equipment are manufactured, sold, distributed or serviced
23 or where records of these activities are prepared or
24 maintained.

25 (ii) Inspect all equipment and supplies in, about,
26 upon or around premises referred to in subparagraph (i).

27 (iii) Seize, summarily remove and impound equipment
28 and supplies from premises referred to in subparagraph
29 (i) for the purposes of examination and inspection.

30 (iv) Inspect, examine and audit all books, records

1 and documents pertaining to a slot machine licensee's
2 operation.

3 (v) Seize, impound or assume physical control of any
4 book, record, ledger, game, device, cash box and its
5 contents, counting room or its equipment or slot machine
6 operations.

7 (2) The provisions of paragraph (1) shall not be deemed
8 to limit warrantless inspections except in accordance with
9 constitutional requirements.

10 (3) To further effectuate the purposes of this part, the
11 bureau and the Pennsylvania State Police may obtain
12 administrative warrants for the inspection and seizure of
13 property possessed, controlled, bailed or otherwise held by
14 an applicant, licensee, permittee, intermediary, subsidiary,
15 affiliate or holding company.

16 (f) Information sharing and enforcement referral.--With
17 respect to the administration, supervision and enforcement of
18 this part, the bureau, the department, the Pennsylvania State
19 Police or the Office of Attorney General may obtain or provide
20 pertinent information regarding applicants, licensees or
21 permittees from or to law enforcement entities or gaming
22 authorities of the Commonwealth and other domestic, foreign or
23 federally approved jurisdictions, including the Federal Bureau
24 of Investigation, and may transmit such information to each
25 other electronically.]

26 Section 20. Section 1517.1 of Title 4 is amended to read:

27 § 1517.1. [(Reserved).] Civil Enforcement.

28 (a) Establishment.--The Division of Gaming Enforcement is
29 hereby established within the Office of Attorney General. The
30 division shall have the following powers and duties:

1 (1) Promptly investigate and review the qualifications
2 of each applicant for a license or permit.

3 (2) In cooperation with the Pennsylvania State Police,
4 provide for the fingerprinting of applicants for licenses and
5 permits and exchange fingerprint data with and receive
6 national criminal history record information from the Federal
7 Bureau of Investigation for use in investigating applicants
8 for any license or permit under this part.

9 (3) Require the production of any information, material
10 or other data from any licensee, permittee or other applicant.

11 (4) Investigate licensees, permittees and other persons
12 regulated by the board to assure compliance with this part.

13 (5) Investigate the circumstances surrounding any act or
14 transaction for which board approval is required.

15 (6) In cooperation with the Pennsylvania State Police,
16 ensure the implementation of adequate security measures at
17 licensed facilities.

18 (7) Inspect and examine licensed entities as provided
19 under section (1517.4) (relating to inspection, seizure and
20 warrants). Inspections may include the review and
21 reproduction of any document or record.

22 (8) Administer oaths, examine witnesses and issue
23 subpoenas compelling the attendance of witnesses or the
24 production of documents and records or other evidence.

25 (9) Conduct audits of a licensed entity as necessary to
26 ensure compliance with this part. An audit may include a
27 review of accounting, administrative and financial records,
28 management control systems, procedures and other records
29 utilized by a licensed entity.

30 (10) Investigate noncriminal violations of this part and

1 regulations promulgated under this part.

2 (11) Initiate, prosecute and defend proceedings for
3 noncriminal violations of this part and regulations of the
4 board by filing a complaint or other pleading with the board.

5 (12) File recommendations and objections relating to the
6 issuance of licenses or permits and appear before the board
7 at public hearings pursuant to section 1205 (relating to
8 regarding license or permit application hearing process;
9 public input hearings).

10 (13) Provide the board with information necessary for
11 the issuance of licenses and for all proceedings involving
12 enforcement of this part.

13 (14) Provide assistance upon request by the board in
14 conciliation and promulgation of rules and regulations.

15 (b) Powers and duties of department.--

16 (1) The department shall at all times have the power of
17 access for examination and audit of any equipment and records
18 relating to any aspect of the operation of slot machines
19 under this part.

20 (2) Notwithstanding the provisions of section 353(f) of
21 the act of March 4, 1971 (P.L.6, No.2), known as the Tax
22 Reform Code of 1971, the department shall supply the board,
23 the division, the Pennsylvania State Police and the Office of
24 Attorney General with information concerning the status of
25 delinquent taxes owed by the applicant, licensee or permittee.

26 Section 21. Title 4 is amended by adding sections to read:

27 § 1517.3. Criminal investigations and proceedings.

28 (a) Powers and duties of Pennsylvania State Police.--

29 (1) The Pennsylvania State Police shall:

30 (i) Cooperate with the division to fingerprint

1 applicants for licenses and permits and exchange
2 fingerprint data with and receive national criminal
3 history record information from the Federal Bureau of
4 Investigation for use in investigating applications for
5 licenses and permits.

6 (ii) Enforce the criminal provisions of this part
7 and all other criminal laws of this Commonwealth relating
8 to criminal conduct in a licensed facility.

9 (iii) When necessary to enforce the criminal
10 provisions of this part and the criminal laws of this
11 Commonwealth, inspect a licensee's or a permittee's
12 person and personal effects present in a licensed
13 facility under this part while that licensee or permittee
14 is present at a licensed facility.

15 (iv) Initiate proceedings for criminal violations of
16 this part relating to criminal conduct in a licensed
17 facility.

18 (v) Monitor gaming operations to ensure all of the
19 following:

20 (A) Compliance with this part, the act of April
21 12, 1951 (P.L.90, No.21), known as the Liquor Code,
22 and other laws of this Commonwealth.

23 (B) The implementation of adequate security
24 measures by a licensed facility.

25 (2) A member of the Pennsylvania State Police assigned
26 to duties of enforcement under this part shall not be counted
27 toward the complement as defined in the act of December 13,
28 2001 (P.L.903, No.100), entitled "An act repealing in part a
29 limitation on the complement of the Pennsylvania State
30 Police."

1 (b) District attorneys.--The district attorneys of the
2 several counties shall have authority to investigate and to
3 institute criminal proceedings for a violation of this part.

4 (c) Attorney General.--In addition to the authority
5 conferred upon the Attorney General under the act of October 15,
6 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act,
7 the Attorney General shall have the authority to investigate
8 and, following consultation with the appropriate district
9 attorney, to institute criminal proceedings for a violation of
10 this part. A person charged with a violation of this part by the
11 Attorney General shall not have standing to challenge the
12 authority of the Attorney General to investigate or prosecute
13 the case and, if any such challenge is made, the challenge shall
14 be dismissed and no relief shall be available in the courts of
15 this Commonwealth to the person making the challenge.

16 (d) Regulatory action.--Nothing contained in this section
17 shall be construed to limit the existing regulatory or
18 investigative authority of an agency or the Commonwealth whose
19 functions relate to persons or matters within the scope of this
20 part.

21 § 1517.4. Inspection, seizure and warrants.

22 (a) Authority.--The division, the department and the
23 Pennsylvania State Police shall have the authority without
24 notice and without warrant to do all of the following in the
25 performance of their duties:

26 (1) Inspect and examine all premises where slot machine
27 operations are conducted, gaming devices or equipment are
28 manufactured, sold, distributed or serviced or where records
29 of these activities are prepared or maintained.

30 (2) Inspect all equipment and supplies in, about, upon

1 or around premises referred to in paragraph (1).

2 (3) Seize, summarily remove and impound equipment and
3 supplies from premises referred to in paragraph (1) for the
4 purposes of examination and inspection.

5 (4) Inspect, examine and audit all books, records and
6 documents pertaining to a slot machine licensee's operation.

7 (5) Seize, impound or assume physical control of any
8 book, record, ledger, game, device, cash box and its
9 contents, counting room or its equipment or slot machine
10 operations.

11 (b) Construction.--The provisions of subsection (a) shall
12 not be deemed to limit warrantless inspection except in
13 accordance with constitutional requirements.

14 (c) Administrative warrants.--To further effectuate the
15 purposes of this part, the division and the Pennsylvania State
16 Police may obtain administrative warrants for the inspection and
17 seizure of property possessed, controlled, bailed or otherwise
18 held by an applicant, licensee, permittee, intermediary,
19 subsidiary, affiliate or holding company.

20 § 1517.5. Information sharing and enforcement referral.

21 With respect to the administration, supervision and
22 enforcement of this part, the division, the department, the
23 Pennsylvania State Police or the Office of Attorney General may
24 obtain or provide pertinent information regarding applicants,
25 licensees or permittees from or to law enforcement entities or
26 gaming authorities of the Commonwealth and other domestic,
27 foreign or federally approved jurisdictions, including the
28 Federal Bureau of Investigation, and may transmit the
29 information to each other electronically.

30 Section 22. Sections 1518(b)(1) and 1801 of Title 4 are

1 amended to read:

2 § 1518. Prohibited acts; penalties.

3 * * *

4 (b) Criminal penalties and fines.--

5 (1) (i) A person that commits a first offense in
6 violation of 18 Pa.C.S. § 4902, 4903 or 4904 in
7 connection with providing information or making any
8 statement, whether written or oral, to the board, [the
9 bureau,] the department, the Pennsylvania State Police,
10 the Office of Attorney General or a district attorney as
11 required by this part commits an offense to be graded in
12 accordance with the applicable section violated. A person
13 that is convicted of a second or subsequent violation of
14 18 Pa.C.S. § 4902, 4903 or 4904 in connection with
15 providing information or making any statement, whether
16 written or oral, to the board, [the bureau,] the
17 department, the Pennsylvania State Police, the Office of
18 Attorney General or a district attorney as required by
19 this part commits a felony of the second degree.

20 (ii) A person that violates subsection (a)(2)
21 through (12) commits a misdemeanor of the first degree. A
22 person that is convicted of a second or subsequent
23 violation of subsection (a)(2) through (12) commits a
24 felony of the second degree.

25 * * *

26 § 1801. Duty to provide.

27 Notwithstanding the provisions of the Race Horse Industry
28 Reform Act or this part, the division, in cooperation with the
29 Pennsylvania State Police, shall, at the request of the
30 commissions [or the board], provide criminal history background

1 investigations[,] and background investigation reports which
2 shall include records of criminal arrests and convictions, no
3 matter where occurring, including Federal criminal history
4 record information, on applicants for licensure and permit
5 applicants by the respective agencies pursuant to the Race Horse
6 Industry Reform Act or this part. Requests for criminal history
7 background investigations and background investigation reports
8 may, at the direction of the commissions or the board, include,
9 but not be limited to, officers, directors and stockholders of
10 licensed corporations, key employees, financial backers,
11 principals, gaming employees, horse owners, trainers, jockeys,
12 drivers and other persons participating in thoroughbred or
13 harness horse meetings and other persons and vendors who
14 exercise their occupation or employment at such meetings,
15 licensed facilities or licensed racetracks. For the purposes of
16 this part, the board and commissions may receive and retain
17 information otherwise protected by 18 Pa.C.S. Ch. 91 (relating
18 to criminal history record information).

19 Section 23. Section 1904 of Title 4 is repealed:

20 [§ 1904. Exclusive jurisdiction of Supreme Court.

21 The Pennsylvania Supreme Court shall have exclusive
22 jurisdiction to hear any challenge to or to render a declaratory
23 judgment concerning the constitutionality of this part. The
24 Supreme Court is authorized to take such action as it deems
25 appropriate, consistent with the Supreme Court retaining
26 jurisdiction over such a matter, to find facts or to expedite a
27 final judgment in connection with such a challenge or request
28 for declaratory relief.]

29 Section 24. On the effective date of the repeal of 4 Pa.C.S.
30 § 1517, the following shall apply:

1 (1) The Bureau of Investigations and Enforcement of the
2 Pennsylvania Gaming Control Board and the Office of
3 Enforcement Counsel shall cease to exist.

4 (2) Individuals employed by the Pennsylvania Gaming
5 Control Board and assigned to positions within the Bureau of
6 Investigations and Enforcement of the Pennsylvania Gaming
7 Control Board or the Office of Enforcement Counsel shall be
8 transferred to and shall become employees of the Division of
9 Gaming Enforcement of the Office of Attorney General and
10 their status as employees of the Pennsylvania Gaming Control
11 Board shall cease.

12 (3) The Office of Attorney General shall establish
13 salaries and other compensation for those individuals
14 transferred pursuant to paragraph (2) in accordance with
15 existing policies of the Office of Attorney General.
16 Individuals transferred pursuant to paragraph (2) shall
17 remain State employees for purposes of 71 Pa.C.S. Pt. XXV and
18 their service shall be considered continual and
19 uninterrupted.

20 (4) On and after the date of transfer to the Office of
21 Attorney General, transferred employees shall be eligible for
22 paid holidays and the accrual of sick and annual leave and
23 any other leave in accordance with the policies of the Office
24 of Attorney General.

25 (5) Sick and annual leave accrued by a transferred
26 employee prior to the date of transfer shall be transferred
27 based upon the accrued sick and annual leave balances
28 credited to the transferred employee by the Pennsylvania
29 Gaming Control Board as of the day immediately preceding the
30 transferred employee's date of transfer.

1 (6) The Pennsylvania Gaming Control Board shall provide
2 payment to the Office of Attorney General for the accrued
3 sick and annual leave transferred and credited pursuant to
4 paragraph (5). Within 30 days of the effective date of this
5 section, the Pennsylvania Gaming Control Board shall provide,
6 in writing, to the Office of Attorney General, all leave
7 information requested by the Office of Attorney General for
8 those individuals transferred pursuant to paragraph (2).

9 (7) Accrued sick or annual leave which exceeds the
10 maximum allowed by the policies of the Office of Attorney
11 General in effect on the day immediately preceding the date
12 of transfer and any other leave shall not be transferred and
13 credited. The Pennsylvania Gaming Control Board shall provide
14 a lump-sum payment to individuals transferred pursuant to
15 paragraph (2) for sick or annual leave and any other leave
16 which is not transferred and credited pursuant to this
17 paragraph.

18 (8) The Attorney General shall submit a report to the
19 chairman and minority chairman of the Appropriations
20 Committee of the Senate and the chairman and minority
21 chairman of the Appropriations Committee of the House of
22 Representatives containing the expenditures for compensation
23 and related expenditures for individuals who are transferred
24 pursuant to this section.

25 Section 25. This act shall take effect in 60 days.