

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 169 Session of 2009

INTRODUCED BY SOLOBAY, CALTAGIRONE, BELFANTI, BEYER, BRENNAN, BUXTON, CARROLL, DALEY, FABRIZIO, FRANKEL, GALLOWAY, GEORGE, GRELL, GRUCELA, HALUSKA, HARKINS, HORNAMAN, KOTIK, KULA, LONGIETTI, MAHONEY, MANN, MELIO, PALLONE, PETRARCA, ROCK, SIPTROTH, SWANGER, VULAKOVICH AND WHITE, MARCH 4, 2009

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, MARCH 4, 2009

AN ACT

1 Amending the act of December 19, 1988 (P.L.1262, No.156),
2 entitled, as amended, "An act providing for the licensing of
3 eligible organizations to conduct games of chance, for the
4 licensing of persons to distribute games of chance, for the
5 registration of manufacturers of games of chance, and for
6 suspensions and revocations of licenses and permits;
7 requiring records; providing for local referendum by
8 electorate; and prescribing penalties," further providing for
9 definitions, for permitted games of chance, for prize limits,
10 for insured games, for limited sales, for recordkeeping, for
11 eligible organizations' use of locations for conducting small
12 games of chance, for separate individual prize limitations
13 and for advertising.

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

16 Section 1. The definitions of "daily drawing" and "games of
17 chance" in section 3 of the act of December 19, 1988 (P.L.1262,
18 No.156), known as the Local Option Small Games of Chance Act,
19 amended December 19, 1990 (P.L.812, No.195) and October 18, 2000
20 (P.L.602, No.79), are amended and the section is amended by
21 adding definitions to read:

22 Section 3. Definitions.

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

4 * * *

5 "Daily drawing." A game in which a bona fide member selects
6 or is assigned a number for a chance at a prize with the winner
7 determined by [a] random drawing to take place on the eligible
8 organization's premises [during the same operating day]. The
9 term includes games commonly known as "member sign-in lotteries"
10 and "half-and-half lotteries." Nothing in this act shall be
11 construed to prohibit the carrying over of a jackpot where the
12 winning number has not been entered in the game on a particular
13 operating day. Daily drawing winners may be determined with the
14 aid of a passive selection device or reference to drawings
15 conducted by the department pursuant to the act of August 26,
16 1971 (P.L.351, No.91), known as the State Lottery Law. Daily
17 drawing chances may not be sold for an amount in excess of \$1,
18 and no more than one chance per individual may be sold [to an
19 individual during the same operating day.] per drawing. Nothing
20 in this definition shall restrict an eligible organization from
21 conducting more than one drawing per day.

22 * * *

23 "Games of chance." Punchboards, daily drawings, weekly
24 drawings, monthly drawings, raffles and pull-tabs, as defined in
25 this act, provided that no such game shall be played by or with
26 the assistance of any mechanical or electrical devices or media
27 other than a dispensing machine or passive selection device and
28 further provided that the particular chance taken by any person
29 in any such game shall not be made contingent upon any other
30 occurrence or the winning of any other contest, but shall be

determined solely at the discretion of the purchaser. This definition shall not be construed to authorize any other form of gambling currently prohibited under any provision of Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses). Nothing in this act shall be construed to authorize games commonly known as "slot machines" or "video poker."

"General operating expenses." The following operating expenses associated with the real property owned or leased by an eligible organization and used for public interest purposes or for conducting small games of chance:

(1) Real property taxes.

(2) Utilities.

(3) Heating and air conditioning.

(4) Water and sewer.

(5) Property insurance.

(6) Liability insurance.

(7) Mortgage payments.

(8) Interior and exterior repairs, including parking lot repairs.

(9) New facility construction.

(10) Any other expense as provided in regulations promulgated by the department.

The term shall not include wages, alcohol purchases or payment of any fine levied against the eligible organization.

* * *

"Monthly drawing." A game in which a bona fide member selects or receives a number or numbers for chance at a prize with the winner determined by a random drawing to take place on the eligible organization's premises during any operating month. Nothing in this act shall be construed to prohibit the carrying

1 over of a jackpot where the winning number has not been entered
2 in the game in a particular month. Monthly drawing winners may
3 be determined with the aid of a passive selection device or
4 reference to drawings conducted by the Department of Revenue
5 pursuant to the act of August 26, 1971 (P.L.351, No.91), known
6 as the State Lottery Law. Monthly drawing chances may not be
7 sold for an amount in excess of \$1.

8 * * *

9 Section 2. Section 4 of the act, amended December 19, 1990
10 (P.L.812, No.195), is amended to read:

11 Section 4. Games of chance permitted.

12 Every eligible organization to which a license has been
13 issued under the provisions of this act may conduct games of
14 chance for the purpose of raising funds for general operating
15 expenses and for public interest purposes. [All proceeds of
16 games of chance shall be used exclusively for public interest
17 purposes or for the purchase of games of chance as permitted by
18 this act.] Proceeds of games of chance shall be used as follows:

19 (1) Fifty-five percent of proceeds shall be used for
20 public interest purposes.

21 (2) Forty percent of proceeds shall be used for general
22 operating expenses.

23 (3) Five percent of proceeds shall be remitted to the
24 department headquarters of the eligible organization.

25 Section 3. Section 5 of the act, amended December 19, 1990
26 (P.L.812, No.195) and October 18, 2000 (P.L.602, No.79), is
27 amended to read:

28 Section 5. Prize limits.

29 (a) Individual prize limit.--[The] Except as provided for in
30 subsection (j), the maximum cash value which may be awarded for

1 any single chance shall be [\$500] \$1,000.

2 (b) Weekly limit.--No more than [\$5,000] \$25,000 in cash or
3 merchandise shall be awarded by any eligible organization in any
4 seven-day period. Payouts of less than \$26 shall not be counted
5 toward the weekly limit.

6 (c) Limit on raffles.--No more than \$5,000 in cash or
7 merchandise shall be awarded in raffles in any calendar month.

8 (d) Exception.--An eligible organization may conduct a
9 raffle and award a prize or prizes valued in excess of [\$500]
10 \$1,000 each only under the following conditions:

11 (1) The licensing authority has issued a special permit
12 for the raffle under section 11.

13 (2) Eligible organizations shall be eligible to receive
14 no more than [two] three special permits in any licensed year
15 [except that volunteer fire, ambulance and rescue
16 organizations shall be eligible to receive no more than three
17 special permits in any licensed year].

18 (3) Only one raffle may be conducted under each special
19 permit.

20 (4) The total cash value of all prizes shall be no more
21 than \$100,000 per calendar year.

22 (e) Limit on daily drawings.--Daily drawings shall be
23 governed by the prize [limitations] limitation contained in
24 [subsections (a) and (b)] subsection (a). [An eligible
25 organization shall not conduct daily drawings during a period
26 when a weekly drawing is taking place.]

27 (f) Exception.--The prize limitation contained in
28 [subsections (a) and (b)] subsection (a) may be exceeded by a
29 daily drawing under the following circumstances: a daily drawing
30 may award a prize where the cash value is in excess of [\$500]

1 \$1,000 if such prize is the result of a carryover of a drawing
2 or drawings which resulted from the winning number in such
3 drawing or drawings not being among the eligible entrants in
4 such drawings. Nothing contained herein shall authorize the
5 prize [limitations] limitation as contained in [subsections (a)
6 and (b)] subsection (a) to be exceeded as a result of a failure
7 to conduct a drawing on an operating day during which chances
8 were sold for a daily drawing or for a daily drawing for which
9 chances were sold in excess of \$1 or for which more than one
10 chance was sold to an eligible participant.

11 (g) Daily drawing and weekly drawing exception.--When a
12 daily drawing or weekly drawing is set up or conducted in such a
13 manner as to pay out or award 100% of the gross revenues
14 generated from such drawing, the limitations contained in
15 subsection (b) shall not apply.

16 (h) Limit on weekly drawings.--Weekly drawings shall be
17 governed by the prize limitations contained in subsection (b).
18 The prize limitation contained in subsection (b) may be exceeded
19 by a weekly drawing under the following circumstances: a weekly
20 drawing may award a prize where the cash value is in excess of
21 [\$5,000] \$25,000 if such prize is the result of a carryover of a
22 drawing or drawings which resulted from the winning number or
23 numbers in such drawing or drawings not being among the eligible
24 entrants in such drawings. Nothing contained in this act shall
25 authorize the prize limitations as contained in subsection (b)
26 to be exceeded as a result of a failure to conduct a drawing for
27 a week during which chances were sold for a weekly drawing or
28 for a weekly drawing for which chances were sold in excess of
29 \$1. [An eligible organization shall not conduct weekly drawings
30 during a period when a daily drawing is taking place.]

1 (i) Limit on monthly drawings.--No more than \$50,000 in cash
2 or merchandise may be awarded in any calendar month except under
3 the following circumstances: a monthly drawing may award a prize
4 where the cash value is in excess of \$50,000 if the prize is the
5 result of a carryover of a drawing or drawings that resulted
6 from the winning number or numbers in the drawing or drawings
7 not being among the eligible entrants in the drawing. Nothing
8 contained in this act shall authorize the prize limitations to
9 be exceeded as a result of a failure to conduct a drawing for a
10 month during which chances were sold for a monthly drawing or
11 for a monthly drawing for which chances were sold in excess of
12 \$1.

13 (j) Progressive games.--Progressive games shall be permitted
14 with a maximum cash value of \$5,000. Contributions to the pot
15 shall be counted against the limit for the week in which the
16 contribution is made except that when the limit is reached the
17 amount awarded shall be counted toward the limit only to the
18 extent it was not previously counted toward a prior week's
19 limit. For the purpose of this section, progressive games are
20 those in which a winning ticket awards the ticket holder an
21 additional chance at another game or games.

22 (k) Emergency services fundraiser.--Notwithstanding any
23 other provision of this section, an eligible organization that
24 performs emergency services shall be permitted to conduct one
25 drawing per year with an award of \$50,000 for the purpose of
26 raising funds to purchase emergency services equipment.

27 Section 4. The act is amended by adding a section to read:
28 Section 5.1. Insured games.

29 Notwithstanding any provision of this act to the contrary, an
30 eligible organization may conduct small games of chance using

insured games. Insured games sold by a licensed distributor shall be backed by a valid insurance contract issued by an insurance company licensed to do business in this Commonwealth. Proof of the insurance contract must be provided to the department prior to the game being sold. The license of a distributor and an insurance company issuing a contract for an insured game may be suspended or revoked for failure to pay an award. For the purposes of this section, an insured game is a game in which the distributor or other licensed third party guarantees making the payment on a win of a jackpot.

Section 5. Section 6 of the act, amended December 19, 1990 (P.L.812, No.195), is amended to read:

Section 6. Sales limited.

No person shall sell, offer for sale or furnish games of chance for use within this Commonwealth except to an eligible organization or distributor licensed under this act. No game of chance, other than a raffle, sold, offered for sale or furnished for use within this Commonwealth shall contain, permit, depict or designate a prize having a cash value in excess of [\$500] \$1,000.

Section 6. Section 7 of the act is amended by adding a subsection to read:

Section 7. Distributor licenses.

* * *

(j) Tax surcharge.--A licensed distributor shall pay a 1% surcharge on the amount of all games sales, to be paid directly to the General Fund.

Section 7. Section 9(b) of the act, amended December 19, 1990 (P.L.812, No.195), is amended to read:

Section 9. Regulations of department.

1 * * *

2 (b) Limitation on recordkeeping requirements.--This section
3 shall not be construed to authorize the department to promulgate
4 regulations providing for recordkeeping requirements for
5 eligible organizations which require unreasonable or unnecessary
6 information or a repetitious listing of information. The
7 department shall strive to keep such recordkeeping requirements
8 from being an undue hardship or burden on eligible
9 organizations. Under no circumstances shall the department
10 require the retention of records for a period in excess of [two
11 years] one year. Each eligible organization shall report to the
12 department prizes awarded as required by section 335 of the act
13 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
14 1971.

15 Section 8. Section 10 of the act, amended December 19, 1990
16 (P.L.812, No.195) and October 18, 2000 (P.L.602, No.79), is
17 amended to read:

18 Section 10. Licensing of eligible organizations to conduct
19 games of chance.

20 (a) License required.--No eligible organization shall
21 conduct or operate any games of chance unless such eligible
22 organization has obtained and maintains a valid license issued
23 pursuant to this section. Auxiliary groups within eligible
24 organizations shall be eligible to conduct small games of chance
25 using the license issued to the eligible organization provided
26 that the auxiliary group or groups are listed on the application
27 and license of the eligible organization. No additional
28 licensing fee shall be charged for an auxiliary group's
29 eligibility under this act. Auxiliary groups shall not include
30 branches, lodges or chapters of a Statewide organization.

1 (b) Issuance and fees.--The licensing authority shall
2 license, upon application, within 30 days any eligible
3 organization meeting the requirements for licensure contained in
4 this act to conduct and operate games of chance at such
5 locations within the county or in such manner as stated on the
6 application as limited by subsection (b.1). The license fee to
7 be charged to each eligible organization shall be [~~\$100~~] \$300,
8 except for limited occasion licenses which shall be [~~\$10~~] \$30.
9 Licenses shall be renewable annually upon the anniversary of the
10 date of issue.

11 (b.1) Location of small games of chance.--Where there exists
12 a location or premises which is the normal business or operating
13 site of the eligible organization and is owned or leased by that
14 eligible organization to conduct its normal business, that site
15 shall be the licensed premises for small games of chance
16 conducted by the eligible organization. If that location
17 consists of more than one building and the eligible organization
18 wishes to conduct its games in a different building at that
19 location from the one that is listed on its application and
20 license, the eligible organization must notify, in writing, the
21 district attorney and the licensing authority of the change in
22 building site and the dates and times that will be affected.
23 When an eligible organization does not own or lease a specific
24 location to conduct its normal business, that eligible
25 organization may use another eligible organization's premises to
26 conduct its games or may make such other arrangements that are
27 consistent with this act, including, but not limited to, leasing
28 a premise under a written agreement for a rental which is not
29 determined by either the amount of receipts realized from the
30 playing of games of chance nor the number of people attending

1 except that an eligible organization may lease a facility for a
2 banquet where a per head charge is applied in connection with
3 the serving of a meal. When such eligible organization changes
4 the site of its games from that which is listed on its
5 application and license, the eligible organization must notify,
6 in writing, the district attorney and licensing authority of the
7 change in their games' site and dates and times that will be
8 affected. More than one organization may use the same location,
9 provided that each organization has its own license and that the
10 prize limitations of this act shall apply separately to each
11 organization.

12 (b.2) Off-premises games of chance.--Notwithstanding any
13 other provisions of this section, an eligible organization may
14 conduct small games of chance at a location off its premises
15 when such games are part of an annual carnival, fair, picnic or
16 banquet held or participated in by that eligible organization on
17 a historical basis. The eligible organization must notify, in
18 writing, the district attorney and licensing authority of the
19 location, date and times of such events where it will be
20 conducting small games of chance.

21 (b.3) Limited occasion licenses.--Eligible organizations
22 which do not own their own premises or which do not lease a
23 specific location to conduct their normal business may apply for
24 a limited occasion license to conduct small games of chance on
25 not more than three occasions covering a total of seven days
26 during a licensed year. A limited occasion license entitles
27 eligible organizations holding such a license to conduct no more
28 than two raffles during a licensed year where prizes may not
29 exceed the established limits for regular monthly raffles.
30 Holders of limited occasion licenses may not apply or be granted

1 any other license or special permit under this act. No holder of
2 a regular license or special permit under this act shall apply
3 or be granted a limited occasion license.

4 (b.4) Gambling facility prohibited.--It shall be unlawful
5 for a person, corporation, association, partnership or other
6 business entity to offer for rent or offer for use a building or
7 facility to be used exclusively for the conducting of small
8 games of chance. It shall also be unlawful for any eligible
9 organization to lease under any terms a facility or building
10 which is used exclusively for the conducting of small games of
11 chance.

12 (c) Display.--Licenses issued pursuant to this section shall
13 be publicly displayed at the site of the small games of chance.

14 (d) Operation.--Each licensed eligible organization shall
15 comply with the following restrictions and rules governing the
16 operation of games of chance:

17 (1) No person under 18 years of age shall be permitted
18 to operate or play games of chance.

19 (2) No eligible organization shall permit any person who
20 has been convicted of a felony in a Federal or State court
21 within the past five years or has been convicted in a Federal
22 or State court within the past ten years of a violation of
23 the act of July 10, 1981 (P.L.214, No.67), known as the Bingo
24 Law, or of this act to manage, set up, supervise or
25 participate in the operation of games of chance.

26 (3) No eligible organization shall pay any compensation
27 to any person for conducting any games of chance. Games of
28 chance may only be conducted by managers, officers,
29 directors, bar personnel and bona fide members of the
30 eligible organization.

1 (4) Games shall be conducted only on the licensed
2 premises or as otherwise provided by this act.

3 (5) The eligible organization shall not lease such
4 premises under either an oral or a written agreement for a
5 rental which is determined by either the amount of receipts
6 realized from the playing of games of chance or the number of
7 people attending, except that an eligible organization may
8 lease a facility for a banquet where a per head charge is
9 applied in connection with the serving of a meal. An eligible
10 organization shall not lease such premises from any person
11 who has been convicted of a violation of this act within the
12 past ten years.

13 (6) Games, other than raffles, daily drawings [and],
14 weekly drawings and monthly drawings, shall be purchased only
15 from manufacturers and distributors approved by the
16 department.

17 (7) No licensed eligible organization shall permit its
18 premises to be used for small games of chance by another
19 licensed eligible organization at the same time that it is
20 conducting small games of chance on the premises. When a
21 licensed eligible organization is permitting another licensed
22 eligible organization to use its premises for purposes of
23 small games of chance, it must cease the operation of its own
24 small games of chance during the period that the other
25 licensed eligible organization is conducting its games on the
26 premises.

27 (8) Raffle tickets may be sold off the licensed premise
28 in any municipality in this Commonwealth which has adopted
29 the provisions of this act by an affirmative vote in a
30 municipal referendum. A licensed eligible organization which

1 plans to sell raffle tickets in a municipality located in a
2 county other than the county in which the eligible
3 organization is licensed must notify that county's district
4 attorney and licensing authority as to the location and the
5 dates that the eligible organization plans to sell raffle
6 tickets.

7 (9) The eligible organization shall keep a bank account
8 to hold the proceeds of small games of chance, which shall be
9 separate from all other funds belonging to the eligible
10 organization. Account records shall show all expenditures and
11 income, and these records shall be retained by the eligible
12 organization for no less than one year in a fire-proof
13 container.

14 (e) Application for license.--Each eligible organization
15 shall apply to the licensing authority for a license on a form
16 to be prescribed by the Secretary of Revenue. The form shall
17 contain an affidavit to be affirmed by the executive officer or
18 secretary of the eligible organization stating that:

19 (1) No person under 18 years of age will be permitted by
20 the eligible organization to operate or play games of chance.

21 (2) The facility in which the games of chance are to be
22 played has adequate means of ingress and egress and adequate
23 sanitary facilities available in the area.

24 (3) The eligible organization is not leasing such
25 premises from the owner thereof under an oral agreement, nor
26 is it leasing such premises from the owner thereof under a
27 written agreement at a rental which is determined by the
28 amount of receipts realized from the playing of games of
29 chance or by the number of people attending, except that an
30 eligible organization may lease a facility for a banquet

1 where a per head charge is applied in connection with the
2 serving of a meal.

3 (4) The eligible organization has a separate bank
4 account to hold all proceeds of small games of chance.

5 (e.1) Supplemental materials to accompany application.--An
6 annual financial report limited to the operation of games of
7 chance detailing gross profit, allowable expenses, rent, staff
8 per diem, cost of supplies, net profit and contributions to
9 charitable causes shall be filed with the licensing authority
10 and submitted with the application. This report shall be filed
11 with the application for license. This report shall be prepared
12 on a one-page form to be designed by the department. The report
13 shall contain information for the 12-month period immediately
14 preceding a date 60 days prior to the filing of the report.
15 Failure to file the report shall result in the automatic
16 suspension of the license until the county treasurer certifies
17 the report has been filed in compliance with this act.

18 (f) List of licensees.--The licensing authority, on a
19 semiannual basis, shall send a copy of all licensees to the
20 Department of Revenue.

21 (g) List of municipalities.--The licensing authority shall
22 include with any license or renewal issued to an eligible
23 organization, an up-to-date listing of those municipalities
24 within the licensing county which have approved the referendum
25 question on small games of chance.

26 (h) Background checks.--Each application shall include
27 criminal history records obtained from the Pennsylvania State
28 Police for the executive officer or secretary of the eligible
29 organization making the application and all other responsible
30 persons listed on the application.

Section 9. Section 15 of the act, amended December 19, 1990 (P.L.812, No.195), is amended to read:

Section 15. Advertising.

It shall not be unlawful for any eligible organization or person to advertise the prizes or their dollar value to be awarded in games of chance, provided that [prizes may be identified on raffle tickets. Notwithstanding the prohibition of advertising contained within this section, an eligible organization may advertise prizes and values thereof in periodic publications which are limited in their circulation to members of the eligible organization.] such advertisements shall contain the date, time, location, whether cash or merchandise prizes will be awarded and the name of the eligible organization licensed to conduct games of chance and the name of the person who conducts the games of chance.

Section 10. The amendment or addition of section 10(b), (e.1) and (h) of the act shall apply to applications filed more than two years after the effective date of this section.

Section 11. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The amendment or addition of section 10(b), (e.1) and (h) of the act.

(ii) Section 10 of this act.

(iii) This section.

(2) The remainder of this act shall take effect in 60 days.