

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1412 Session of 2014

INTRODUCED BY ALLOWAY, ERICKSON, FONTANA, RAFFERTY, WHITE,  
BREWSTER, McILHINNEY, WAGNER, MENSCH, YAW, VULAKOVICH, VOGEL,  
CORMAN AND SCARNATI, JUNE 16, 2014

REFERRED TO FINANCE, JUNE 16, 2014

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 enforcement; and, in tavern gaming, further providing for  
10 definitions, for licenses, for application, for approval, for  
11 change in ownership, for tavern raffle, for distribution of  
12 net revenue, for tavern games tax, for host municipality  
13 tavern games tax, for reports, for enforcement and for  
14 prohibitions.

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

17 Section 1. Section 702(b) of the act of December 19, 1988  
18 (P.L.1262, No.156), known as the Local Option Small Games of  
19 Chance Act, amended November 27, 2013 (P.L.1045, No.90) and  
20 November 27, 2013 (P.L.1062, No.92), is amended to read:

21 Section 702. Enforcement.

22 \* \* \*

23 (b) Bureau of Liquor Control Enforcement.--If the licensee

1 is a club licensee [or a licensee under Chapter 9], the Bureau  
2 of Liquor Control Enforcement may enforce the provisions of this  
3 act in accordance with subsection (g). An administrative law  
4 judge under section 212 of the act of April 12, 1951 (P.L.90,  
5 No.21), known as the Liquor Code, may impose the penalties under  
6 subsection (d) following the issuance of a citation by the  
7 bureau. The Bureau of Liquor Control Enforcement shall have no  
8 jurisdiction to enforce the provisions of this act on any  
9 special occasion permit holder under section 408.4 of the Liquor  
10 Code. The Bureau of Liquor Control Enforcement shall retain all  
11 powers and duties to enforce the provisions of the Liquor Code  
12 on a special occasion permit holder.

13 \* \* \*

14 Section 2. The definitions of "board," "bureau" and "net  
15 revenue" in section 902 of the act, added November 27, 2013  
16 (P.L.1045, No.90), are amended to read:

17 Section 902. Definitions.

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

21 \* \* \*

22 ["Board." The Pennsylvania Liquor Control Board.

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

25 \* \* \*

26 "Net revenue." As follows:

27 (1) For tavern games required to be purchased from a  
28 licensed distributor under this act, the difference between:

29 (i) the amount of the face value, as indicated by  
30 the manufacturer, minus the cost of the game, collectible

1 by a licensee from a tavern game; and

2 (ii) the maximum amount of prizes payable, as  
3 indicated by the manufacturer, by a licensee from a  
4 tavern game.

5 (2) For tavern games not required to be purchased from a  
6 licensed distributor, the term has the same meaning as  
7 proceeds.

8 \* \* \*

9 Section 3. Sections 903, 904, 905, 906, 908.1, 909,  
10 909.1(a), (c) and (h), 909.2(g), 912, 913 and 914 of the act,  
11 added November 27, 2013 (P.L.1045, No.90), are amended to read:  
12 Section 903. Licenses.

13 (a) Application.--A restaurant licensee may apply to the  
14 [board] department for a license to conduct tavern games at a  
15 licensed premises located in a municipality that has adopted a  
16 referendum to allow small games of chance under section 703.

17 (b) Information.--The application under subsection (a) shall  
18 include the following information:

19 (1) The name, address and photograph of the applicant.

20 (2) A current tax lien certificate issued by the  
21 department and a certificate from the Department of Labor and  
22 Industry of payment of all workers' compensation and  
23 unemployment compensation owed.

24 [(3) The details of any license issued under 4 Pa.C.S.  
25 Pt. II (relating to gaming), the act of April 12, 1951  
26 (P.L.90, No.21), known as the Liquor Code, or this act which  
27 was applied for or in which the applicant or other owner has  
28 an interest.

29 (4) Certified consent by the applicant, including each  
30 owner and officer of the restaurant licensee, to a background

1 investigation by the bureau.

2 (5) Relating to criminal information, disclosure of all  
3 arrests and citations of the applicant, including nontraffic  
4 summary offenses. The information shall include all of the  
5 following:

6 (i) A brief description of the circumstances  
7 surrounding the arrest or issuance of the citation.

8 (ii) The specific offense charged.

9 (iii) The ultimate disposition of the charge,  
10 including any dismissal, plea bargain, conviction,  
11 sentence, pardon, expungement or order of Accelerated  
12 Rehabilitative Disposition.

13 (6) Financial interests and transactions as required by  
14 the bureau.

15 (7) Relating to citations of the applicant issued under  
16 the Liquor Code.

17 (8) Relating to disclosure of conditional license  
18 agreements entered into under the Liquor Code.

19 (9) Any other information required by the board.

20 (c) Duty of bureau.--The bureau shall conduct a background  
21 investigation of each applicant, the scope of which shall be  
22 determined by the bureau.

23 (d) Review.--Within six months of receipt of the background  
24 investigation report from the bureau, the board shall approve or  
25 disapprove the application.

26 (e) Background investigation.--Each applicant shall include  
27 information and documentation as required to establish personal  
28 and financial suitability, honesty and integrity. Information  
29 shall include:

30 (1) Criminal history record information.

1           (2) Financial background information.

2           (3) Regulatory history before the board or other  
3       Commonwealth agency.

4           (4) Other information required by the bureau.

5       (f) Personal interview.--If the bureau determines that the  
6       results of the background report investigation warrant  
7       additional review of the individual, the bureau shall conduct a  
8       personal interview with the applicant and may request  
9       information and interviews from other personal or professional  
10      associates.

11      (g) Cooperation.--The applicant shall cooperate with the  
12      bureau as requested during the conduct of the background  
13      investigation. Any refusal to provide the information required  
14      under this section or to consent to a background investigation  
15      shall result in the immediate denial of a license by the board.

16      (h) Costs.--The applicant shall reimburse the bureau for the  
17      actual costs of conducting the background investigation. The  
18      board shall not approve an applicant that has not fully  
19      reimbursed the bureau for the investigation.

20      (i) Approval.--The bureau shall transmit the investigative  
21      report and may make a recommendation to the board. The board  
22      shall review the information obtained under this section to  
23      determine if the applicant possesses the following:

24           (1) Financial stability, integrity and responsibility.

25           (2) Sufficient business experience and ability to  
26      effectively operate tavern games as part of the restaurant  
27      licensee's operator.

28           (3) Character, honesty and integrity to be licensed to  
29      operate tavern games in a responsible and lawful manner.]

30      (j) Disapproval.--The [board] department may disapprove the

1 issuance of a tavern gaming license for the following reasons:

2 (1) A license shall not be issued to a restaurant  
3 licensee whose liquor license is in safekeeping pursuant to  
4 section 474.1 of the Liquor Code.

5 (2) A license shall not be issued to a location that is  
6 subject to a pending objection under section 470(a.1) of the  
7 Liquor Code.

8 (3) A license shall not be issued to a location that is  
9 subject to:

10 (i) a pending license suspension under section 471  
11 of the Liquor Code; or

12 (ii) a one-year prohibition on the issuance or  
13 transfer of a license under section 471(b) of the Liquor  
14 Code.

15 Section 904. Application.

16 (a) Application fee.--An applicant shall pay the [board]  
17 department a nonrefundable application fee of \$1,000.

18 [(b) Investigative fee.--An applicant shall pay an  
19 investigative fee of \$1,000 to the bureau.

20 (c) Costs.--In addition to the fee under subsection (b), an  
21 applicant and any owner and officer of the applicant shall pay  
22 for the actual costs of a background investigation conducted by  
23 the bureau that exceed the application fee. The bureau may:

24 (1) Charge an estimated amount to be provided prior to  
25 the background investigation.

26 (2) Submit for reimbursement from the applicant for the  
27 additional costs incurred in the background investigation.

28 (d) Funds.--Funds collected under subsections (b) and (c)  
29 shall augment the funds appropriated to the Pennsylvania Gaming  
30 Control Board under 4 Pa.C.S. (relating to amusements).]

1 Section 905. Approval.

2 (a) Issuance.--Upon being satisfied that the requirements of  
3 section 903 have been met, the [board] department may approve  
4 the application and issue a tavern games license for a period of  
5 one year. The [board] department may enter into an agreement  
6 with the licensee concerning additional restrictions on the  
7 license, and this agreement shall be binding on the licensee.  
8 Failure of the licensee to adhere to the agreement will be cause  
9 for penalties under section 913(c) and for the nonrenewal of the  
10 license under section 913(f).

11 (b) Renewal.--A license shall be renewed annually. A license  
12 renewal shall not require review of the [bureau, unless  
13 requested by the board] department. The [board] department may  
14 refuse to renew a tavern gaming license for the following  
15 reasons:

16 (1) A license shall not be issued to a restaurant  
17 licensee whose liquor license is in safekeeping under section  
18 474.1 of the act of April 12, 1951 (P.L.90, No.21), known as  
19 the Liquor Code.

20 (2) A license shall not be issued to a location that is  
21 subject to a pending objection under section 470(a.1) of the  
22 Liquor Code.

23 (3) A license shall not be issued to a location that is  
24 subject to:

25 (i) a pending license suspension under section 471  
26 of the Liquor Code; or

27 (ii) a one-year prohibition on the issuance or  
28 transfer of a license under section 471(b) of the Liquor  
29 Code.

30 (c) Fee.--Upon approval, the applicant shall pay a [\$2,000]

1 \$1,000 license fee to be deposited in the General Fund. The  
2 annual renewal fee shall be \$1,000.

3 (d) Entitlement.--Nothing under this chapter shall be  
4 construed to create an entitlement to a license by a person. The  
5 [board] department shall have sole discretion to issue, renew,  
6 condition, suspend, revoke or deny a license based on the  
7 requirements of this chapter and whether the issuance and  
8 maintenance of the license are in the best interests of the  
9 Commonwealth.

10 (e) Nontransferability.--A license shall be a grant of  
11 privilege to conduct tavern games. A license may not be sold,  
12 transferred or assigned to any other person. A licensee may not  
13 pledge or otherwise grant a security interest in or lien on the  
14 license. The [board] department shall have the sole discretion  
15 to issue, renew, condition or deny the issuance of a license.  
16 Section 906. Change in ownership.

17 (a) Notice.--A licensee shall notify the [board] department  
18 of a change of ownership of the premises or sale or transfer of  
19 the restaurant license.

20 (b) Qualification.--The purchaser or transferee of the  
21 assets or premises of a licensee must independently qualify for  
22 a license[, ] and pay the license fee [and undergo and pay fees  
23 and costs for a background investigation] under section 903.  
24 Section 908.1. Tavern raffle.

25 The following shall apply to a tavern raffle:

26 (1) No more than one tavern raffle may be held in a  
27 calendar month.

28 (2) A tavern raffle must be held for a designated  
29 charitable purpose.

30 (3) Each individual participating in the tavern raffle



1 must be informed of the charitable purpose involved.

2 (4) At least 50% of the net revenues from the tavern  
3 raffle shall be transmitted to the designated charity within  
4 seven days of the tavern raffle.

5 (5) Any net revenues not transmitted under paragraph (4)  
6 shall be distributed as follows:

7 (i) [~~Sixty~~] Fifty percent shall be paid to the  
8 Commonwealth.

9 (ii) [~~Thirty-five~~] Forty-five percent may be  
10 retained by the licensee.

11 (iii) Five percent shall be paid to the Commonwealth  
12 and deposited into the restricted receipts account  
13 established in section 909.3.

14 (6) A tavern raffle prize remaining unclaimed by a  
15 winner 60 days after the tavern raffle was held shall be  
16 donated by the licensee within 30 days to the designated  
17 charitable organization for which the tavern raffle was  
18 conducted.

19 Section 909. Distribution of net revenue.

20 Beginning January 1, 2014, the net revenue from tavern games  
21 received by a licensee shall be distributed as follows:

22 (1) [~~Sixty~~] Fifty percent of the net revenue obtained in  
23 any calendar year shall be paid to the Commonwealth.

24 (2) [~~Thirty-five~~] Forty-five percent of the net revenue  
25 obtained in any calendar year may be retained by the  
26 licensee.

27 (3) Five percent shall be paid to the Commonwealth and  
28 deposited into the restricted receipts account established in  
29 section 909.3.

30 Section 909.1. Tavern games tax.

1 (a) Imposition.--There is imposed a tax of [60%] 55% of the  
2 net revenue from tavern games sold by a licensed distributor to  
3 a licensee within this Commonwealth.

4 \* \* \*

5 (c) Other games.--In an instance where the tavern game is  
6 not required to be purchased from a licensed distributor under  
7 this act, a tax of [60%] 55% is imposed upon the net revenue  
8 from tavern daily drawings and tavern raffles under section  
9 908.1 and must be paid to the Commonwealth by the licensee.

10 \* \* \*

11 (h) Penalties and interest.--If a licensee or licensed  
12 distributor fails to file the return required under subsection  
13 (e) or fails to pay the tax imposed under subsection (a) or (c),  
14 the department may do the following:

15 (1) assess the amount of tax due;

16 (2) impose and assess an administrative penalty equal to  
17 10% of the tax due but unpaid for each quarter or fraction  
18 thereof that the tax remains unpaid together with interest at  
19 the rate established under section 806 of the act of April 9,  
20 1929 (P.L.343, No.176), known as The Fiscal Code, on the tax  
21 from the time the tax became due. The penalty provided in  
22 this paragraph must be added to the tax and assessed and  
23 collected at the same time and in the same manner as a part  
24 of the tax. Unless otherwise specified, the tax must be  
25 assessed, collected and enforced by the department under the  
26 provisions of Article II of the act of March 4, 1971 (P.L.6,  
27 No.2), known as the Tax Reform Code of 1971;

28 (3) notify the [board] department that a licensee has  
29 not filed returns or has not paid tax. The [board] department  
30 may suspend or revoke a licensee's license; or

1 (4) revoke a licensed distributor's license.

2 \* \* \*

3 Section 909.2. Host municipality tavern games tax.

4 \* \* \*

5 (g) Penalties and interest.--If a licensee or licensed  
6 distributor fails to file the return required under subsection  
7 (e) or fails to pay the tax imposed under subsection (a) or (c),  
8 the department may do the following:

9 (1) assess the amount of tax due;

10 (2) impose and assess an administrative penalty equal to  
11 10% of the tax due but unpaid for each quarter or fraction  
12 thereof that the tax remains unpaid together with interest at  
13 the rate established under section 806 of the act of April 9,  
14 1929 (P.L.343, No.176), known as The Fiscal Code, on the tax  
15 from the time the tax became due. The penalty provided in  
16 this paragraph must be added to the tax and assessed and  
17 collected at the same time and in the same manner as a part  
18 of the tax. Unless otherwise specified, the tax must be  
19 assessed, collected and enforced by the department under the  
20 provisions of Article II of the act of March 4, 1971 (P.L.6,  
21 No.2), known as the Tax Reform Code of 1971;

22 (3) [notify the board that a licensee has not filed  
23 returns or has not paid tax. The board may] suspend or revoke  
24 a licensee's license; or

25 (4) revoke a licensed distributor's license.

26 \* \* \*

27 Section 912. Reports.

28 A licensee shall submit an annual report to the [board and  
29 the] department for the preceding year on a form and in a manner  
30 prescribed by the department. The department shall develop a

1 schedule for the submission of the annual report. The report  
2 shall include:

3 (1) Prizes awarded as required under section 335 of the  
4 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform  
5 Code of 1971.

6 (2) Net revenue received from each tavern game  
7 conducted, itemized by week.

8 (3) Amount of prizes paid from all tavern games,  
9 itemized by week.

10 (4) Amount of tax remitted to the department.

11 (5) Amount given to designated charities from tavern  
12 raffles.

13 (6) Other information as required by the department.

14 Section 913. Enforcement.

15 (a) [Board] Department.--The [board] department may,  
16 following notice and hearing, impose penalties or suspend or  
17 revoke a license under this chapter.

18 [(b) Authority of department.--Notwithstanding any law to  
19 the contrary, the department may report violations of this  
20 chapter to the board and to the Bureau of Liquor Control  
21 Enforcement.]

22 (c) [Penalties] Civil penalties.--The [board] department may  
23 impose a civil penalty for a violation of this chapter in  
24 accordance with the following:

25 (1) Up to \$2,000 for an initial violation.

26 (2) Up to \$3,000 for a second violation.

27 (3) Up to \$5,000 for a third violation.

28 [(d) Criminal penalty.--A violation of this chapter shall be  
29 a misdemeanor of the third degree. A second or subsequent  
30 offense shall be a misdemeanor of the second degree.

1 (e) Administrative law judge.--An administrative law judge  
2 under section 212 of the act of April 12, 1951 (P.L.90, No.21),  
3 known as the Liquor Code, may impose the penalties under this  
4 section following the issuance of a citation by the Bureau of  
5 Liquor Control Enforcement.]

6 (f) Suspension, revocation or failure to renew.--

7 (1) In addition to any other sanctions the [board]  
8 department may impose under this chapter [or under the Liquor  
9 Code], the [board] department may, at its discretion,  
10 suspend, revoke or deny renewal of any license issued under  
11 this chapter if it receives any information from any source  
12 and determines that:

13 (i) The applicant or any of its officers, directors,  
14 owners or employees:

15 (A) Is in violation of any provision of this  
16 chapter.

17 (B) Furnished the [board] department with false  
18 or misleading information.

19 (ii) The information contained in the applicant's  
20 initial application or any renewal application is no  
21 longer true and correct.

22 (2) In the event of a revocation, suspension or failure  
23 to renew, the applicant's authorization to conduct the  
24 previously approved activity shall immediately cease, and all  
25 fees paid in connection therewith shall be deemed to be  
26 forfeited. In the event of a suspension, the applicant's  
27 authorization to conduct the previously approved activity  
28 shall immediately cease until the [board] department has  
29 notified the applicant that the suspension is no longer in  
30 effect.

1       (3) The department shall immediately and permanently  
2       revoke a license issued under this chapter if the licensee  
3       has committed three or more violations of this chapter in a  
4       two-year period.

5 Section 914. Prohibitions.

6       The following shall apply to any license authorized or issued  
7 under this chapter:

8           (1) No license may be issued to a restaurant licensee  
9       whose place of business is located in a licensed facility as  
10      defined in 4 Pa.C.S. § 1103 (relating to definitions).

11          (2) No license may be issued to a place of business on  
12      the grounds of a facility where a major league sports team  
13      conducts games or races.

14          (3) No license may be issued to a place of business that  
15      has been decreed a nuisance pursuant to section 611 of the  
16      act of April 12, 1951 (P.L.90, No.21), known as the Liquor  
17      Code.

18          (4) The [board] department shall be prohibited from  
19      issuing a license to any person who has been convicted of a  
20      felony offense or misdemeanor gambling offense in any  
21      jurisdiction unless 15 years have elapsed from the date of  
22      conviction of the offense.

23          (5) It shall be unlawful for an individual under 21  
24      years of age to play or attempt to play or otherwise  
25      participate in a tavern game.

26          (6) It shall be unlawful for a licensee to permit an  
27      employee under 18 years of age to operate tavern games.

28          (7) It shall be unlawful for an owner, officer or  
29      employee of a licensee to sell, operate or otherwise  
30      participate in the conduct of tavern games if the employee

1 has been convicted in any jurisdiction of a felony or a  
2 misdemeanor gambling offense unless 15 years have elapsed  
3 from the date of conviction of the offense.

4 (8) It shall be unlawful for an owner or officer of a  
5 licensee or for an employee of the licensee who operates the  
6 tavern game to participate in the game. This paragraph shall  
7 not apply to a raffle.

8 Section 4. This act shall take effect in 60 days.