

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1089 Session of
2003

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BELFANTI AND PALLONE, APRIL 8, 2003

REFERRED TO COMMITTEE ON FINANCE, APRIL 8, 2003

AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania
2 Consolidated Statutes, providing for waterfront development
3 and riverboat gaming; establishing the Pennsylvania Gaming
4 Commission, Gaming Commission Fund and the Riverboat Gaming
5 Fund; levying a tax; and imposing penalties.

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

8 Section 1. Title 12 of the Pennsylvania Consolidated
9 Statutes is amended by adding a chapter to read:

10 CHAPTER 71

11 PENNSYLVANIA GAMING COMMISSION AND WATERFRONT

12 DEVELOPMENT AND RIVERBOAT GAMING

13 Sec.

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- 9 § 7111. Definitions.

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

13 "Adjusted gross receipts." The total of cash or cash
14 equivalent spent by riverboat patrons on games minus the total
15 of:

16 (1) Cash or the cash equivalent paid out to riverboat
17 patrons as a result of playing a game.

18 (2) Cash paid to purchase annuities to fund cash paid to
19 riverboat patrons over several years by independent
20 administrators as a result of playing a game.

21 (3) Any personal property distributed to a riverboat
22 patron as a result of playing a game.

23 "Affiliate" or "affiliated company." A person that directly
24 or indirectly, through one or more intermediaries, controls, is
25 controlled by or is under common control with a specified
26 person.

27 "Applicant." A person, including a company, who has applied
28 for a license or a finding of suitability under this chapter.

29 "Application." A request for the issuance of a license or a
30 finding of suitability under this chapter.

1 "Board." The Board of Finance and Revenue.

2 "Chairman." The chairman of the Pennsylvania Gaming
3 Commission.

4 "Cheat." To alter the selection of criteria which determine
5 the result of a game or the amount or frequency of payment in a
6 game.

7 "Commission." The Pennsylvania Gaming Commission established
8 in section 7112 (relating to Pennsylvania Gaming Commission
9 established).

10 "Commissioner." A member of the Pennsylvania Gaming
11 Commission.

12 "Company." A corporation, partnership, limited partnership,
13 trust, association, joint stock company, joint venture, limited
14 liability company or other form of business organization which
15 is not a natural person.

16 "Creditor interest." With respect to any person, any right
17 or claim of whatever character against such person for the
18 payment of money borrowed, whether secured or unsecured, matured
19 or unmatured, liquidated, absolute, fixed or contingent and
20 including obligations based upon such person's earnings, profits
21 or receipts.

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

23 "Dock." The location where a riverboat gaming watercraft is
24 moored for the purpose of embarking and disembarking patrons and
25 for the conduct of dockside gaming.

26 "Eligible county." Any county in which an operator license
27 can be issued under this chapter.

28 "Eligible waters." Any rivers or lakes existing on the
29 effective date of this chapter within any eligible county in
30 this Commonwealth which are used or are susceptible to being

1 used as arteries of navigation or commerce, including any
2 natural or artificial space, inlet, hollow or basin, in or
3 adjacent to a bank of such rivers or lakes, but shall not
4 include any artificial space which is located more than 500 feet
5 from the closest edge of the main channel of the river or lake,
6 as established by the United States Army Corps of Engineers or
7 the Pennsylvania Department of Environmental Protection.

8 "Equity interest." With respect to any company, any
9 proprietary right or claim allowing the holder either to vote
10 with respect to matters of organizational governance or
11 participate in the profits and residual assets of such company.

12 The term includes, without limitation:

- 13 (1) Common and preferred stock in a corporation.
- 14 (2) General and limited partnership interests in a
15 partnership and similar interests in any other form of
16 business organization.
- 17 (3) Any warrant, right or similar interest convertible
18 into, or to subscribe for any of the foregoing, with or
19 without payment of additional consideration.

20 "Executive director." The executive director of the
21 Pennsylvania Gaming Commission, including, where appropriate,
22 his employees.

23 "Family." The spouse, parents, children and siblings of a
24 natural person.

25 "Finding of suitability." A determination by the
26 Pennsylvania Gaming Commission under section 7156 (relating to
27 finding of suitability; divestiture by persons found
28 unsuitable).

29 "Game." Any banking, nonbanking or percentage game played
30 with cards, with dice or with any mechanical, electromechanical

1 or electronic device or machine for money, property, checks,
2 credit or any representation of value, including, without
3 limiting the generality of the foregoing, acey-deucey, beat the
4 dealer, bouncing ball, faro, monte, roulette, keno, fan-tan,
5 twenty-one, blackjack, Caribbean poker, seven-and-a-half, 12
6 klondike, craps, poker, Red-dog sic bo, chuck-a-luck (dai shu),
7 wheel of fortune, big six wheel, chemin de fer, baccarat,
8 minibaccarat, paigow, beat the banker, panguingui, slot machine
9 (including progressive slot machines) or any other game or
10 device approved by the Pennsylvania Gaming Commission. The term
11 does not include:

12 (1) The Pennsylvania State Lottery as authorized under
13 the act of August 26, 1971 (P.L.351, No.91), known as the
14 State Lottery Law.

15 (2) Bingo as authorized under the act of July 10, 1981
16 (P.L.214, No.67), known as the Bingo Law.

17 (3) Pari-mutuel betting on the outcome of horse racing
18 as authorized under the act of December 17, 1981 (P.L.435,
19 No.135), known as the Race Horse Industry Reform Act.

20 (4) Small games of chance as authorized by the act of
21 December 19, 1988 (P.L.1262, No.156), known as the Local
22 Option Small Games of Chance Act.

23 "Gaming." To deal, operate, carry on, conduct, maintain or
24 expose for play any game.

25 "Gaming device." Any mechanical, electromechanical or
26 electronic contrivance, component or machine used in connection
27 with gaming or any game which affects the result of a wager by
28 determining win or loss. The term includes, without limitation,
29 slot machines and video lottery terminals, but does not include
30 dice, cards or other nonmechanical instrumentalities that may be

1 used in a game.

2 "Gaming employee." Any person connected directly with the
3 operation of a gaming establishment licensed to conduct any
4 game, including:

5 (1) Boxmen.

6 (2) Cashiers.

7 (3) Change personnel.

8 (4) Counting room personnel.

9 (5) Dealers or croupiers.

10 (6) Floormen.

11 (7) Hosts or other persons empowered to extend credit or
12 complimentary services.

13 (8) Keno runners.

14 (9) Keno writers.

15 (10) Machine mechanics.

16 (11) Security personnel.

17 (12) Shift or pit bosses.

18 (13) Supervisors, managers, assistant supervisors and
19 assistant managers.

20 (14) Ticket writers.

21 (15) Cage personnel.

22 (16) Collection personnel.

23 (17) Credit executives.

24 (18) Accounting or internal auditing personnel who are
25 directly involved in any recordkeeping or the examination of
26 records associated with revenue from gaming.

27 (19) Bartenders.

28 (20) Employees of a person holding a supplier license
29 whose duties are directly involved with manufacture, repair
30 or distribution of slot machines or gaming devices within

1 this Commonwealth.

2 The term does not include cocktail servers or other persons
3 engaged in preparing or serving food or beverages, secretarial
4 and janitorial personnel, stage, sound and light technicians and
5 other nongaming personnel.

6 "Gross receipts." The total amount of money spent by
7 riverboat patrons on games.

8 "Host municipality." A city, borough, town, incorporated
9 town or township within an eligible county in which an applicant
10 for an operator license or an operator licensee has docked or,
11 in the case of an applicant, proposes to dock a riverboat.

12 "Institutional investor" or "institutional lender." These
13 terms shall mean:

14 (1) A bank as defined in section 3(a)(6) of the
15 Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C.
16 §78c(a)(6)).

17 (2) An insurance company as defined in section 2(a)(17)
18 of the Investment Company Act of 1940 (54 Stat. 789, 15
19 U.S.C. § 80a-1 et seq.).

20 (3) An investment company registered under section 8 of
21 the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. §
22 80a-1 et seq.).

23 (4) An investment adviser registered under section 203
24 of the Investment Advisers Act of 1940 (54 Stat. 847, 15
25 U.S.C. § 80b-3).

26 (5) Collective trust funds as defined in section
27 3(c)(11) of the Investment Company Act of 1940 (54 Stat. 789,
28 15 U.S.C. § 80a-1 et seq.).

29 (6) An employee benefit plan or pension fund that is
30 subject to the Employee Retirement Income Security Act of

1 1974 (Public Law 93-406, 88 Stat. 829), excluding an employee
2 benefit plan or pension fund sponsored by a publicly traded
3 corporation licensed by the Pennsylvania Gaming Commission.

4 (7) A Federal or State Government pension plan.

5 (8) A group comprised entirely of institutional
6 investors or institutional lenders specified in paragraphs
7 (1) through (7).

8 (9) Such other persons as the Pennsylvania Gaming
9 Commission may determine for reasons consistent with the
10 Commonwealth policies expressed in section 7112 (relating to
11 Pennsylvania Gaming Commission established). To qualify as an
12 institutional investor or lender, a person other than a
13 Federal or State pension plan must meet the requirements of a
14 "qualified institutional buyer" as defined by the Securities
15 Exchange Commission.

16 "Key executive." Any executive who is a department head of
17 an operator licensee or has the power to exercise a significant
18 influence over decisions concerning any part of the gaming
19 operations of the operator licensee and whose compensation
20 exceeds an amount determined by regulation of the Pennsylvania
21 Gaming Commission.

22 "License." Any temporary or permanent license awarded
23 pursuant to this chapter.

24 "Licensee." Any person to whom a valid license has been
25 awarded pursuant to this chapter.

26 "Negotiable instrument." A writing which evidences a gaming
27 debt owed to a person who holds an operator license at the time
28 the debt is created and includes any writing taken in
29 consolidation, redemption or payment of a prior negotiable
30 instrument.

1 "Occupational license." A license awarded under this chapter
2 as required by section 7145 (relating to occupational license
3 authorized).

4 "Occupational licensee." Any person holding an occupational
5 license.

6 "Operator license." A license issued by the Pennsylvania
7 Gaming Commission under this chapter which authorizes the person
8 who holds the license to engage in gaming.

9 "Operator licensee." Any person holding an operator license.

10 "Party officer." The following members or officers of any
11 political party:

12 (1) A member of a national committee.

13 (2) A chairman, vice chairman, secretary, treasurer or
14 counsel of a Commonwealth committee or member of the
15 executive committee of a Commonwealth committee.

16 (3) A county chairman or vice chairman or counsel,
17 secretary or treasurer of a county committee.

18 (4) A city chairman or vice chairman or counsel,
19 secretary or treasurer of a city committee.

20 (5) A borough chairman or vice chairman or counsel,
21 secretary or treasurer of a borough committee.

22 (6) A town chairman or vice chairman or counsel,
23 secretary or treasurer of a town committee.

24 (7) A township chairman or vice chairman or counsel,
25 secretary or treasurer of a township committee.

26 "Person." A natural person or a company.

27 "Public official." Any elected or appointed official or
28 employee in the executive, legislative or judicial branch of the
29 Commonwealth or any political subdivision. The term does not
30 include members of advisory boards which have no authority to

1 expend public funds other than reimbursement for personal
2 expense or to otherwise exercise the power of the Commonwealth
3 or any political subdivision; nor does the term include any
4 appointed official who receives no compensation other than
5 reimbursement for actual expenses.

6 "Publicly traded corporation." A company which:

7 (1) has one or more classes of securities registered
8 pursuant to section 12 of the Securities Exchange Act of 1934
9 (48 Stat. 881, 15 U.S.C. § 78l et seq.);

10 (2) is an issuer subject to section 15(d) of the
11 Securities Exchange Act of 1934.

12 The term does not include any company or other legal entity
13 which has securities registered or is an issuer under paragraph
14 (1) solely because it guaranteed a security issued by an
15 affiliated company pursuant to a public offering or is
16 considered by the Securities and Exchange Commission to be a
17 coissuer of a public offering of securities pursuant to 17 CFR §
18 230.140 (relating to definition of "distribution" in section
19 2(11) for certain transactions).

20 "Regulation." A rule, regulation, standard, directive or
21 statement of general applicability which is promulgated under
22 this chapter in the administration of this chapter or under any
23 other act conferring jurisdiction on the Pennsylvania Gaming
24 Commission and which effectuates the law or policy or which
25 describes the procedure or requirements of the Pennsylvania
26 Gaming Commission. The term does not include:

27 (1) A statement concerning only the internal management
28 of the Pennsylvania Gaming Commission and not affecting the
29 rights or procedures available to any licensee or other
30 person.

1 (2) A declaratory ruling or order.

2 (3) An interagency memorandum.

3 (4) The Pennsylvania Gaming Commission's decision or
4 order in a contested case or relating to an application for a
5 license.

6 "Riverboat." Every description of watercraft on which
7 gaming, dockside or otherwise, is conducted in accordance with
8 this chapter. The watercraft need not be self-propelled and may
9 be permanently moored.

10 "Slot machine." Any mechanical, electrical,
11 electromechanical or other device, contrivance or machine
12 (including video lottery terminals) which, upon insertion of a
13 coin, token or object of value, including, without limitation,
14 paper tickets, magnetically striped cards, cards with embedded
15 chips or other media, which may be exchanged for currency or
16 entered into another game for game credits, if upon payment of
17 any consideration, is available to play or operate, the play or
18 operation of which, whether by reason of the skill of the
19 operator or application of the element of chance, or both, may
20 deliver or entitle the person playing or operating the machine
21 to receive cash, premiums, merchandise, tokens or anything of
22 value whether the payoff is made automatically from the machine
23 or in any other manner.

24 "Supplier." Any person who manufactures, distributes,
25 assembles, produces, sells, leases or otherwise provides gaming
26 devices.

27 "Supplier license." A license awarded under this chapter.

28 "Supplier licensee." Any person holding a supplier license.

29 § 7112. Pennsylvania Gaming Commission established.

30 An independent commission to be known as the Pennsylvania

1 Gaming Commission is hereby established.

2 § 7113. Composition and governance of Pennsylvania Gaming
3 Commission.

4 (a) Composition of commission.--The commission shall consist
5 of seven members three of whom shall be appointed by the
6 Governor, one of whom shall be appointed by the President pro
7 tempore of the Senate, one of whom shall be appointed by the
8 Minority Leader of the Senate, one of whom shall be appointed by
9 the Speaker of the House of Representatives and one of whom
10 shall be appointed by the Minority Leader of the House of
11 Representatives. All appointments by the Governor, other than
12 initial appointments to the commission, shall comply with the
13 provisions of section 207.1(d) of the act of April 9, 1929
14 (P.L.177, No.175), known as The Administrative Code of 1929. The
15 appointing authorities shall appoint each of the initial members
16 of the commission within 30 days of the effective date of this
17 act.

18 (b) Terms of office.--The members of the commission shall
19 serve three-year terms, except that the terms of the initial
20 appointments shall be staggered with the terms of the three
21 members appointed by the Governor expiring two years after their
22 initial appointments. Commissioners may not serve on the
23 commission for more than two terms, consecutively or otherwise.

24 (c) Vacancies.--Vacancies in the commission occurring
25 otherwise than by expiration of term shall be filled for the
26 unexpired term in the same manner as original appointments.

27 (d) Qualifications.--The members of the commission shall
28 meet the following requirements:

29 (1) Each member shall be a United States citizen and
30 resident of this Commonwealth.

1 (2) The member shall not hold any elective or appointed
2 office in the executive, legislative or judicial branch of
3 the Commonwealth or any political subdivision.

4 (3) The member shall not be a party officer.

5 (4) The member shall not during the period commencing
6 two years prior to the appointment have held a direct or
7 indirect interest in a person licensed by or subject to
8 regulation by the commission.

9 (5) The member shall not have any direct or indirect
10 financial interest in any gaming activity regulated by the
11 commission or in any person holding a license awarded by the
12 commission; nor shall any member of the commissioner's family
13 have such an interest.

14 (6) No member shall be appointed who has been convicted
15 of any crime, excluding summary convictions.

16 (e) Officers.--The Governor shall designate one member to
17 serve as chairman of the commission. The commission shall select
18 from its membership a vice chairman and whatever other officers
19 the commission deems necessary.

20 (f) Oath of office.--An appointee before entering upon the
21 duties of the commissioner shall swear that he is not
22 financially interested in any person holding a license issued by
23 the commission or subject to regulation by the commission and
24 that he will abide by the terms of this chapter and regulations
25 promulgated by the commission and all statutory and regulatory
26 provisions of this Commonwealth that apply to the commission.
27 The oath shall be filed with the Secretary of State.

28 (g) Removal.--Any member of the commission shall be removed
29 from office, by the authority that appointed him, regardless of
30 any unexpired term of appointment for incompetency, misconduct,

1 willful neglect of duty or other conduct evidencing unfitness
2 for the office, including, but not limited to, violation of the
3 oath of office.

4 (h) Compensation and expenses.--The members of the
5 commission shall receive a salary of \$95,000 per year and shall
6 receive reimbursement for their actual and necessary expenses
7 while performing the business of the commission.

8 § 7114. Meetings of Pennsylvania Gaming Commission.

9 (a) Regular and special meetings.--Regular and special
10 meetings of the commission may be held at the discretion of the
11 commission and at such times and places as it may deem
12 convenient, but at least one regular meeting shall be held each
13 month. The provisions of 65 Pa.C.S. Ch. 7 (relating to open
14 meetings) shall apply to the commission, except that commission
15 meetings may be closed to discuss information deemed
16 confidential pursuant to section 7125 (relating to disclosure of
17 records) or 65 Pa.C.S. Ch. 7.

18 (b) Voting requirements.--Four members shall constitute a
19 quorum for the purpose of conducting the business of the
20 commission and for all other purposes. All actions of the
21 commission shall be taken by a majority of the members, and in
22 no event fewer than four members.

23 § 7115. Ethics.

24 (a) Code of ethics.--The commission shall adopt a code of
25 ethics for commission members, employees and agents and shall
26 provide that none of these shall be permitted to engage in
27 gaming activities in an establishment licensed by the
28 commission, except in the course of a person's duties. No person
29 who has served as a commissioner shall accept employment from a
30 person licensed by the commission for a period of two years

1 after termination of his duties as a commissioner.

2 (b) Statutes applying to commission.--The commission, its
3 members and all of its employees shall be subject to 65 Pa.C.S.
4 Ch. 11 (relating to ethics standards and financial disclosure)
5 and the act of July 19, 1957 (P.L.1017, No.451), known as the
6 State Adverse Interest Act, except that, if any provision of
7 this act is in conflict with the provisions of either 65 Pa.C.S.
8 Ch. 11 or the State Adverse Interest Act, the provision
9 requiring the more restrictive conduct shall control.

10 § 7116. Powers and duties.

11 (a) General powers and duties.--Except as provided in
12 subsection (b), the commission shall have full jurisdiction over
13 and shall supervise, license and regulate all gaming activities
14 in this Commonwealth as provided in this chapter and any other
15 act.

16 (b) Exceptions.--The powers and duties of the commission
17 under subsection (a) shall not include:

18 (1) The Pennsylvania State Lottery as authorized under
19 the act of August 26, 1971 (P.L.351, No.91), known as the
20 State Lottery Law.

21 (2) Bingo as authorized under the act of July 10, 1981
22 (P.L.214, No.67), known as the Bingo Law.

23 (3) Small games of chance as authorized by the act of
24 December 19, 1988 (P.L.1262, No.156), known as the Local
25 Option Small Games of Chance Act.

26 (c) Horse racing.--The provisions of the act of December 17,
27 1981 (P.L.435, No.135), known as the Race Horse Industry Reform
28 Act, shall continue to apply to pari-mutuel betting on the
29 outcome of horse racing but the State Horse Racing Commission
30 and the State Harness Racing Commission are hereby transferred

1 from the Department of Agriculture and established as
2 administrative commissions within the Pennsylvania Gaming
3 Commission. They shall continue to exercise independent
4 jurisdiction over pari-mutuel betting on the outcome of horse
5 racing in this Commonwealth but any other form of gaming
6 conducted at facilities subject to their jurisdiction shall be
7 licensed, supervised and regulated by the Pennsylvania Gaming
8 Commission.

9 (d) Specific duties.--The commission shall have the powers
10 and its duties shall be:

11 (1) To investigate and determine the eligibility of
12 applicants for licenses and to select from among competing
13 applicants the applicant or applicants which best serve the
14 interests of the citizens of this Commonwealth.

15 (2) To regulate and adopt standards for all gaming
16 activities in this Commonwealth.

17 (3) To establish specifications for the design,
18 appearance, accommodation and construction of any riverboats
19 and to require mandatory inspections to insure compliance.
20 Under no circumstances shall this power supersede any
21 provision of any zoning ordinance adopted in conformity with
22 the act of July 31, 1968 (P.L.805, No.247), known as the
23 Pennsylvania Municipalities Planning Code, or the act of May
24 6, 1929 (P.L.1551, No.469), entitled, "An act authorizing
25 cities of the first class to adopt and enforce zoning
26 ordinances; regulating and restricting the height, location,
27 size, bulk and use of buildings and/or land, the areas to be
28 occupied by buildings in proportion to the size of the lots
29 upon which they stand, the size of courts, yards and other
30 open spaces appurtenant thereto, and the density of

1 population, and for these purposes to establish districts and
2 boundaries; to designate and regulate residential, commercial
3 and industrial or other uses within such districts and
4 boundaries; and providing for the appointment of a zoning
5 commission and a board of adjustment, the creation of a
6 bureau of zoning, and setting forth the duties and functions
7 of said commission, board and bureau; providing for the
8 administration and enforcement of rules and ordinances
9 authorized by this chapter, and penalties for violations
10 thereof."

11 (4) To determine in accordance with this chapter which
12 games may be played on riverboats and ensure that the games
13 so authorized are conducted fairly. No gaming device shall be
14 set to pay out less than 80% of all wagers.

15 (5) To maintain accurate and complete records of the
16 proceedings of the commission and to certify such records as
17 may be appropriate. The provisions of the act of June 21,
18 1957 (P.L.390, No.212), referred to as the Right-to-Know Act,
19 shall apply to the commission, except that the provisions of
20 this chapter shall be deemed to control with respect to any
21 documents or communications deemed confidential or privileged
22 pursuant to section 7125 (relating to disclosure of records).

23 (6) To levy and provide for the collection of
24 application fees and license fees and of fines and penalties
25 for violations of this chapter and any other law conferring
26 jurisdiction on the commission or the rules and regulations
27 promulgated by the commission. All such fees, fines and
28 penalties shall be paid to the State Treasurer through the
29 commission for use as provided in this chapter or in any
30 other law.

1 (7) To enforce the civil provisions of this chapter or
2 any other law conferring jurisdiction on the commission and
3 to prosecute violations of those provisions.

4 (8) To cooperate with and assist the Pennsylvania State
5 Police and the various district attorneys of this
6 Commonwealth, who shall have primary responsibility for the
7 enforcement of the criminal provisions of this chapter and
8 any other law conferring jurisdiction on the commission.

9 (9) To cooperate with the department in administering
10 the collection of taxes under this chapter or any other
11 gaming activities subject to the jurisdiction of the
12 commission.

13 (10) To conduct hearings pertaining to civil violations
14 of this chapter and any other law conferring jurisdiction on
15 the commission or rules and regulations promulgated by the
16 commission.

17 (11) To enhance the representation of minority groups in
18 the operation of riverboats and other gaming activities and
19 through ownership and operation of business activities
20 utilized by the riverboats and other gaming activities in
21 this Commonwealth.

22 (12) To submit to the Governor and to the General
23 Assembly an annual report which shall include a statement of
24 receipts and disbursements by the commission, including any
25 special account or fund under its control, an account of the
26 commission's actions and any other information which the
27 commission deems significant or which the Governor and the
28 General Assembly may request.

29 (13) To take any and all actions it deems appropriate to
30 achieve the purposes of this chapter and any other law over

1 which it has jurisdiction.

2 (14) To promulgate such regulations as may be necessary
3 to achieve the purposes of this chapter and any other law
4 conferring jurisdiction on the commission and regulations it
5 deems necessary for the protection of the health, safety,
6 morals and general welfare of this Commonwealth and for the
7 reputation of this Commonwealth's gaming industry.

8 (e) Specific powers.--In addition to the powers and duties
9 set forth elsewhere in this chapter and any other law, the
10 commission shall have, without limitation, the following
11 specific powers:

12 (1) To have jurisdiction over all gaming operations in
13 this Commonwealth.

14 (2) To adopt regulations for the issuance of licenses or
15 determinations of suitability consistent with the standards
16 set forth in this chapter or any other law conferring
17 jurisdiction on the commission.

18 (3) To classify licenses and to establish regulations
19 relating to the issuance of the various classes of licenses.

20 (4) To prescribe rules and regulations governing the
21 manufacture, distribution, sale, operation and servicing of
22 gaming devices.

23 (5) To prescribe, where appropriate, the manner in which
24 winnings, compensation from games and gaming devices and
25 gaming revenue must be computed and reported by licensees.

26 (6) To prescribe, where appropriate, financial reporting
27 requirements for licensees.

28 (7) To approve, where appropriate, internal control
29 procedures for licensees that are within accepted industry
30 standards.

1 (8) To conduct audits of licensees.

2 (9) To prescribe in conjunction with the department the
3 manner of computing and collecting taxes on gaming activities
4 authorized by this chapter or otherwise subject to the
5 jurisdiction of the commission.

6 (10) To require any applicant for a license or a finding
7 of suitability under this chapter or any other law conferring
8 jurisdiction on the commission to pay the costs of a
9 background investigation which are not covered by the
10 application fee.

11 (11) To require any applicant for a license or a finding
12 of suitability to provide one or more sets of fingerprints
13 and to require the applicant to bear the costs associated
14 with the search and classification of the fingerprints.

15 (12) To enter riverboats, offices, facilities and other
16 places of business of a licensee to obtain evidence of
17 compliance or noncompliance with and to enforce the
18 provisions of this chapter and any other law conferring
19 jurisdiction on the commission.

20 (13) To investigate alleged violations of this chapter
21 or commission rules, and any other law conferring
22 jurisdiction on the commission, regulations, orders or
23 decisions and, in the course of such investigations, to copy,
24 seize and impound books and records of operations, supplies,
25 equipment, cash boxes, counting rooms, games or gaming
26 devices and to take appropriate disciplinary action against a
27 licensee for a violation or refer the same to the appropriate
28 law enforcement agency.

29 (14) To adopt, where appropriate, regulations
30 establishing the reasons for and the procedures by which

1 persons may be ejected from riverboats or other licensed
2 gaming facilities and providing for the establishment of a
3 list of persons to be excluded from riverboats or other
4 licensed gaming facilities. The regulations may provide for
5 ejectment or exclusion of persons who have violated this
6 chapter or any other law authorizing gaming activities in
7 this Commonwealth or regulations promulgated by the
8 commission or when the person's presence is deemed
9 detrimental to the best interests of gaming.

10 (15) To impose civil fines and penalties for violations
11 of this chapter or any other law conferring jurisdiction on
12 the commission.

13 (16) To issue emergency orders regarding the
14 navigability of eligible waters in the event of extreme
15 weather conditions, acts of God and similar circumstances
16 should an operator licensee offer excursions for the purpose
17 of conducting gaming activities.

18 (17) To issue subpoenas requiring the attendance of
19 witnesses and subpoenas duces tecum requiring the production
20 of documents, to appoint hearing officers and to administer
21 oaths and affirmations to witnesses, as may be required to
22 administer and enforce this chapter or any other law
23 conferring jurisdiction on the commission.

24 (18) To prescribe, where necessary, the manner and
25 method of alcohol and drug testing for employees of the
26 commission and for persons employed in connection with gaming
27 activities.

28 (19) To issue orders in accordance with this chapter and
29 any other law conferring jurisdiction on the commission and
30 regulations promulgated by the commission, granting,

1 revoking, suspending, limiting or making conditional any
2 license or finding of suitability issued by the commission.

3 (20) To suspend a license or finding of suitability
4 issued under this chapter or any other law conferring
5 jurisdiction on the commission without notice or hearing if
6 the commission finds that the safety or health of patrons or
7 employees is imminently jeopardized by the licensee's
8 continued operation or if the issuance of an emergency order
9 is otherwise warranted under circumstances set forth in
10 regulations and procedures promulgated by the commission.

11 (21) To delegate to the executive director and staff of
12 the commission the execution of any of its powers under this
13 chapter or any other law conferring jurisdiction on the
14 commission for the purpose of administering and enforcing
15 this chapter or any other law conferring jurisdiction on the
16 commission and its rules and regulations, provided that such
17 delegation shall be in accordance with standards established
18 by the commission and the laws of this Commonwealth.

19 (22) To develop and implement forms to be used for the
20 purposes of this chapter and any other law conferring
21 jurisdiction on the commission.

22 (23) To adopt, use and alter at will a corporate seal.

23 (24) To sue and be sued, implead and be impleaded,
24 complain and defend in all courts.

25 (25) To make and enter into contracts and other
26 instruments necessary or convenient for the conduct of its
27 business and the exercise of the powers of the commission.

28 (26) To retain counsel and auditors to render such
29 professional services as the commission deems appropriate.

30 The commission shall not be considered either an executive

1 agency or an independent agency for the purpose of the act of
2 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
3 Attorneys Act, but shall possess the same status for such
4 purpose as the Auditor General, the State Treasurer and the
5 Pennsylvania Public Utility Commission. The commission,
6 through its legal counsel after consultation with the
7 Attorney General, shall defend actions brought against the
8 commission or its members, officers, officials and employees
9 when acting within the scope of their official duties.

10 (27) To acquire, by gift or otherwise, purchase, hold,
11 receive, lease, sublease and use any franchise, license or
12 property, real, personal or mixed, tangible or intangible, or
13 any interest in such property, and to sell, transfer, lease,
14 convey and dispose of any property, real, personal or mixed,
15 tangible or intangible, or any interest in such property, all
16 as may be necessary or convenient to implement this chapter
17 or any other law conferring jurisdiction on the commission.

18 (28) To accept from, purchase or borrow equipment,
19 supplies, services or other things necessary or convenient to
20 the work of the commission from any government agencies, and
21 all government agencies are authorized to sell, lend or grant
22 to the commission the equipment, supplies, services or other
23 things necessary or convenient for the work of the
24 commission. In addition, the commission is authorized to
25 reimburse any government agency and any government agency is
26 authorized to accept reimbursement from the commission for
27 any equipment, supplies, services or other things provided by
28 any government agency that are utilized by the commission.

29 (29) To purchase or lease such furniture, furnishings,
30 stationery supplies, materials, equipment, fuel, motor

1 vehicles and printing and binding materials as may be
2 necessary to conduct the work of the commission.

3 (30) To enter into contracts for individual or group
4 insurance and to contribute to retirement plans for the
5 benefit of its employees and to enroll its employees in an
6 existing retirement system of a government agency.

7 (31) To take any other action that may be reasonable or
8 appropriate to implement and enforce this chapter and any
9 other law conferring jurisdiction on the commission and
10 commission regulations, orders, decisions and rulings.

11 (32) To employ an executive director, deputies,
12 secretaries, officers and representatives as it may deem
13 necessary, who shall serve at the commission's pleasure. The
14 commission shall also employ other employees as it sees fit
15 and whose duties and compensation shall be prescribed by the
16 commission. The commission shall be subject to the provisions
17 of the act of April 9, 1929 (P.L.177, No.175), known as The
18 Administrative Code of 1929, as to classification and
19 compensation for all its employees and conduct its activities
20 consistent with the practices and procedures of Commonwealth
21 agencies.

22 § 7117. Executive director.

23 (a) Appointment.--The commission shall appoint an executive
24 director who shall serve at the pleasure of the commission.

25 (b) Qualifications.--The person appointed by the commission
26 as executive director shall:

27 (1) Have at least ten years of responsible
28 administrative experience in public or business
29 administration or possess broad and recognized management
30 skills.

1 (2) Meet the same qualification criteria and be subject
2 to the same disqualification criteria as required of
3 appointees to the commission under section 7113 (relating to
4 composition and governance of Pennsylvania Gaming
5 Commission).

6 (3) Take the same oath of office as appointees to the
7 commission and abide by the same statutes and codes referred
8 to in that oath.

9 (4) Devote full time and attention to the duties
10 assigned under this chapter and any other law conferring
11 jurisdiction on the commission and not hold any other
12 employment.

13 (c) Background investigation.--The Pennsylvania State Police
14 shall conduct a thorough background investigation of any person
15 under consideration for the position of executive director prior
16 to his appointment and provide the results of the investigation
17 to the commission.

18 (d) Salary.--The annual salary and other compensation of the
19 executive director shall be set by the commission.

20 (e) Duties.--The executive director shall have the following
21 duties:

22 (1) To maintain all commission records and preserve all
23 applications, records, books and other documents submitted to
24 the commission or entrusted to its care.

25 (2) To administer the provisions of this chapter and any
26 other law conferring jurisdiction on the commission and the
27 regulations of the commission relating to the confidentiality
28 and disclosure of documents and information.

29 (3) To hire personnel necessary to implement and
30 accomplish the purposes of this chapter and any other law

1 conferring jurisdiction on the commission.

2 (4) To develop a commission budget which will be
3 submitted to and approved by the commission.

4 (5) To sign contracts on behalf of the commission which
5 the commission has approved by resolution or otherwise.

6 (6) To make purchases authorized by the commission.

7 (7) To perform any and all duties assigned by the
8 commission.

9 § 7118. Criminal history information.

10 When the commission is authorized or required to consider an
11 applicant's criminal history, the commission shall initiate a
12 criminal history record investigation to obtain any information
13 in the possession of the Pennsylvania State Police or the
14 Federal Bureau of Investigation or other relevant law
15 enforcement agencies. The Pennsylvania State Police shall be
16 authorized to and shall provide, at the commission's request,
17 information concerning any criminal charges and their
18 disposition which have been filed against an applicant for or
19 holder of a license issued by the commission. The commission
20 shall use the information obtained as a result of any
21 investigation under this section in determining the eligibility
22 of a person for a license or a finding of suitability. The
23 applicant shall be responsible for the payment of all costs
24 incurred for the investigation which are not covered by the
25 application fee.

26 § 7119. Exemptions to disclosure rules.

27 (a) General rule.--The commission shall not be required to
28 disclose any information, the disclosure of which would not be
29 required by the act of June 21, 1957 (P.L.390, No.212), referred
30 to as the Right-to-Know Law, or would be prohibited by the

1 statutes, rules, regulations or intergovernmental agreements of
2 any jurisdiction.

3 (b) Confidential information.--Notwithstanding any provision
4 of the Right-to-Know Law and subject to the provisions of this
5 section, the commission shall not, except subject to a court
6 order or with the prior written consent of a licensee or
7 applicant and after notice, disclose any information or data
8 required under this chapter or any other law conferring
9 jurisdiction on the commission or pursuant to regulations
10 promulgated by the commission to be designated and maintained as
11 confidential.

12 (c) Categories of confidential information.--The following
13 types of documents or information concerning an applicant or a
14 licensee shall be designated and maintained as confidential
15 pursuant to this section:

16 (1) Financial information, including statements, audits
17 and financing applications, including, but not limited to,
18 offering memoranda, placement documents and purchase
19 agreements.

20 (2) Marketing information, business plans and
21 proprietary information, including, without limitation, trade
22 secrets.

23 (3) Investigatory materials developed by or provided to
24 the commission during an investigation of an applicant for or
25 holder of a license or a finding of suitability.

26 (4) Books and records kept by a licensee relating to
27 gaming revenues as required by the commission are not to be
28 considered public records. The commission may, however,
29 publish and disseminate gaming revenues of each licensee at
30 such frequency and in such detail as it deems appropriate.

1 § 7120. Administrative procedures.

2 Except as provided in this chapter or any other law
3 conferring jurisdiction on the commission, a person may appeal
4 from any final order, decree, decision, determination or ruling
5 of the commission as provided in 2 Pa.C.S. (relating to
6 administrative law and procedure).

7 § 7121. Establishment and use of Gaming Commission Fund; fiscal
8 affairs of Pennsylvania Gaming Commission.

9 (a) Establishment of fund.--All fees, fines, penalties and
10 other moneys paid, received, recovered and collected under the
11 provisions of this chapter shall be placed in a separate fund by
12 the State Treasurer to be known as the Riverboat Gaming Fund
13 established under section 7171 (relating to Riverboat Gaming
14 Fund). Twenty million dollars shall be allocated annually to a
15 separate fund to be known as the Gaming Commission Fund. All
16 interest received on the Gaming Commission Fund shall be
17 credited to the Gaming Commission Fund.

18 (b) Purposes of fund.--The Gaming Commission Fund shall be
19 used for the following purposes:

20 (1) Payment of all administrative expenses of the
21 commission, including, without limitation, expenses incident
22 to processing, investigating and issuing licenses and
23 determinations of suitability.

24 (2) Payment of the salaries, wages, compensation and
25 expenses of the commissioners, the executive director and the
26 agents, employees and other persons who may be required to
27 perform work for the commission pursuant to this chapter.

28 (3) Purchase of such furniture, furnishings, stationery
29 supplies, materials, equipment, fuel, motor vehicles and
30 printing and binding materials as may be necessary to the

1 conduct of the work of the commission.

2 (4) Payment of moneys due for the purchase, lease or
3 rental of any offices required by the commission.

4 (5) Payment of contingent, incidental or other expenses
5 reasonably necessary to carry on the work of the commission.

6 (6) Allocation by the commission of at least \$1,000,000
7 annually for the purpose of treating compulsive gambling in
8 Pennsylvania. Approximately one-half of this amount should be
9 earmarked for treatment, and the remainder directed toward
10 prevention, education, training, research and intervention.

11 (c) Payment from fund.--All moneys in the Gaming Commission
12 Fund shall be appropriated annually by the General Assembly to
13 the commission and may be expended for the purposes authorized
14 under this section.

15 § 7122. Authorized riverboat gaming licenses; applications.

16 (a) Authorized licenses.--

17 (1) The commission shall be authorized to promulgate
18 regulations concerning, to accept applications for and to
19 award the following types of licenses relating to riverboat
20 gaming:

21 (i) Operator licenses.

22 (ii) Supplier licenses.

23 (iii) Occupational licenses.

24 (2) The commission is also authorized to promulgate
25 regulations concerning, to accept applications for and to
26 make findings of suitability under section 7156 (relating to
27 finding of suitability; divestiture by persons found
28 unsuitable).

29 (b) Temporary licenses.--A temporary occupational license
30 awarded by the commission shall continue in effect until the

1 commission awards or denies a final license. The commission may
2 promulgate regulations concerning the experience and training
3 that the holder of a temporary occupational license must possess
4 in order to obtain a permanent license.

5 (c) Fees.--Except for any fee which is specifically set
6 forth in this chapter, the commission shall have the power and
7 the duty to establish and amend fees for initial applications,
8 periodic renewals and for other purposes the commission deems
9 necessary to effectively and efficiently implement and
10 administer the provisions of this chapter. All fees shall be
11 established to cover all costs incurred by the commission in the
12 administration of this chapter.

13 (d) Forms.--Applications for licenses and findings of
14 suitability shall be made to the commission on forms furnished
15 by the commission according to the regulations of the
16 commission.

17 § 7123. Qualifications for licenses or findings of suitability.

18 (a) General standard for licensing.--Any person whom the
19 commission determines to be qualified to receive a license or
20 whom the commission finds to be suitable under the provisions of
21 this chapter and the regulations adopted under this chapter,
22 having due consideration for the proper protection of the
23 health, safety, morals and general welfare of this Commonwealth
24 and the declared policy of this Commonwealth, may be awarded a
25 license or be found suitable. The applicant bears the burden of
26 establishing that he is qualified to receive and hold any
27 license.

28 (b) Specific findings.--An application for a license or to
29 be found suitable shall not be approved unless the commission is
30 satisfied that the applicant is a person:

1 (1) Of good character, honesty and integrity.

2 (2) Whose prior activities, criminal record, if any,
3 reputation, habits and associations do not pose a threat to
4 the public interest of this Commonwealth or to the effective
5 regulation and control of gaming or create or enhance the
6 dangers of unsuitable, unfair or illegal practices, methods
7 and activities in the conduct of gaming or the carrying on of
8 the business and financial arrangements incidental thereto.

9 (3) Who possesses the knowledge, experience and
10 qualifications necessary to perform the tasks required by the
11 position for which licensing or a finding of suitability has
12 been requested.

13 (4) Who in all other respects is qualified to be
14 licensed or found suitable under the laws of this
15 Commonwealth.

16 (c) Criminal history information.--When the commission is
17 authorized or required to consider an applicant's criminal
18 history, the commission shall initiate a criminal history record
19 investigation to obtain any information in the possession of the
20 Pennsylvania State Police or the Federal Bureau of Investigation
21 or other relevant law enforcement agencies. The Pennsylvania
22 State Police shall be authorized to and shall provide at the
23 commission's request information concerning any criminal charges
24 and their disposition which have been filed against an applicant
25 for or holder of a license. The commission shall use the
26 information obtained as a result of any investigation under this
27 section in determining the eligibility of a person for a license
28 or a finding of suitability. The applicant shall be responsible
29 for the payment of all costs incurred for the investigation
30 which are not covered by the application fee.

1 § 7124. Investigations for licenses, action of commission and
2 further investigation.

3 (a) Investigations.--The commission shall, as required by
4 this chapter, investigate the qualifications of each applicant
5 before any license or finding of suitability is issued by the
6 commission. Information provided on the application may be used
7 as a basis for a background investigation.

8 (b) Commencement of investigation.--The commission shall
9 commence the investigation of the applicant within 30 days after
10 the filing of an application and such supplemental information
11 as the commission may require.

12 (c) Completion of investigation.--If a person has applied
13 for a position which cannot be held pending licensure or a
14 finding of suitability by the commission, the commission shall
15 use its best efforts to complete the investigation and file a
16 written report concerning the application within three months
17 after the application and supporting data are completed and
18 filed with the commission.

19 § 7125. Disclosure of records.

20 (a) Mandated disclosures.--Notwithstanding any statutory
21 provision to the contrary, the commission shall, upon written
22 request from any person and in accordance with procedures
23 established by regulation, provide the following types of
24 information furnished by an applicant for or holder of an
25 operator license concerning the applicant or licensee, his
26 products, services or gaming enterprises and his business
27 holdings:

28 (1) The name, business address and business telephone
29 number of any applicant or licensee.

30 (2) An identification of any applicant or licensee,

1 including, if the person is not an individual, the state of
2 incorporation, the corporate officers and the identity of all
3 shareholders or participants. If an applicant or licensee is
4 a publicly traded corporation, only the names of those
5 persons or entities holding an interest of 5% or more must be
6 provided.

7 (3) Identification of any company, including, if
8 applicable, the state of incorporation in which an applicant
9 or licensee or an applicant's or licensee's family has an
10 equity interest of 5% or more.

11 (4) Whether an applicant or licensee has been indicted,
12 convicted, pleaded guilty or nolo contendere or forfeited
13 bail concerning any criminal offense under the laws of any
14 jurisdiction, either felony or misdemeanor but not summary
15 offenses, including the date, name and location of the court,
16 arresting agency and prosecuting agency, case number, the
17 offense, disposition and location and length of
18 incarceration.

19 (5) Whether an application for any license or
20 certificate in this Commonwealth or any other jurisdiction
21 was denied, restricted, suspended, revoked or not renewed,
22 and a statement describing the facts and circumstances
23 concerning the denial, restriction, suspension, revocation or
24 nonrenewal, including the licensing authority, the date each
25 such action was taken and the reason for each such action.

26 (6) A statement listing the names and titles of all
27 public officials or officers of any unit of government and of
28 their adult family members who, directly or indirectly, own
29 any financial interest in, have any beneficial interest in,
30 are the creditors of or hold any debt instrument issued by or

1 hold or have any interest in any contractual or service
2 relationship with an applicant or licensee.

3 (7) The amount of gaming tax paid to the Commonwealth by
4 the holder of an operator license.

5 (b) Exemptions to disclosure rules.--Subject to the
6 provisions of subsection (a), the commission shall not be
7 required to disclose any information, the disclosure of which
8 would not be required by the act of June 21, 1957 (P.L.390,
9 No.212), referred to as the Right-to-Know Law, or would be
10 prohibited by the statutes, rules, regulations or
11 intergovernmental agreements of any jurisdiction.

12 (c) Confidential information.--Notwithstanding any provision
13 of the Right-to-Know Law and subject to the provisions of this
14 section, the commission shall not, except subject to a court
15 order or with the prior written consent of a licensee or
16 applicant and after notice, disclose any information or data
17 required under this chapter or pursuant to regulations
18 promulgated by the commission to be designated and maintained as
19 confidential.

20 (d) Categories of confidential information.--The following
21 types of documents or information concerning an applicant or a
22 licensee shall be designated and maintained as confidential
23 pursuant to this section:

24 (1) Financial information, including statements, audits
25 and financing applications, including, but not limited to,
26 offering memoranda, placement documents and purchase
27 agreements.

28 (2) Marketing information, business plans and
29 proprietary information, including, without limitation, trade
30 secrets.

(3) Investigatory materials developed by or provided to the commission during an investigation of an applicant for or holder of a license or a finding of suitability.

§ 7126. License not a property right.

Any license awarded by the commission pursuant to this chapter is a revocable privilege and not a right, property or otherwise, under the Constitution of the United States or the Constitution of Pennsylvania, and no applicant for or holder of any license has any vested interest or right in any license granted under this chapter.

§ 7127. Operator license authorized.

The commission is authorized to award operator licenses authorizing persons to conduct riverboat gaming under this chapter. It shall be unlawful for a person to conduct riverboat gaming in this Commonwealth without an operator license.

§ 7128. Distribution of operator licenses; limitation.

(a) Allocation.--The commission shall allocate operator licenses, as follows:

(1) Two licenses to first class counties.

(2) One license to one of the following counties:

(i) A first class county.

(ii) A second class A county.

(iii) A third class county which is contiguous to three second class A counties.

(3) One license to a city of the second class.

(4) One license to one of the following counties:

(i) A second class county.

(ii) A county, regardless of classification, that is contiguous to a second class county.

(5) One license to a third class city with a population

not less than 100,000 nor more than 104,000 according to the 2000 Federal decennial census.

(6) One license to a third class city with a population not less than 48,000 nor more than 49,000 according to the 2000 Federal decennial census and which experienced a population loss of no less than 6.5% nor more than 7% since the 1990 Federal decennial census.

(7) One license to any county of this Commonwealth, regardless of classification.

(b) Restriction.--The operator license issued under this chapter restricts the licensee to operate one riverboat per license in Pennsylvania.

(c) Ownership interest.--No person may beneficially own, directly or indirectly, an equity interest in more than two operator licenses under this chapter, provided that equity interests not exceeding 5% of the total equity interest in any operator license shall be excluded for purposes of computing the foregoing. No person may operate more than two riverboats licensed under this chapter.

§ 7129. Application for operator license; application fee.

(a) Required information.--Application for an operator license shall be in a form and contain such information as the commission prescribes, including, but not limited to, all of the following:

(1) The name of the proposed licensee.

(2) The proposed location where the riverboat will be docked.

(3) Evidence necessary to determine the compliance of the proposed riverboat with the specifications prescribed by the commission for the design, appearance, accommodation and

1 construction of any riverboat on which gaming is to be
2 conducted.

3 (4) Evidence that the applicant possesses or has the
4 right to acquire sufficient title to the proposed site
5 contiguous to eligible waters.

6 (5) A site development plan approved by the local
7 waterfront development commission as set forth in section
8 7176 (relating to local waterfront commissions) of the
9 municipality where the riverboat is to be docked, including
10 lighted parking, traffic patterns, shelter facilities and a
11 permanent docking structure at a minimum. The development of
12 the site, including these facilities and structures, shall be
13 in accordance with zoning, building, occupancy and other
14 applicable codes as defined by municipal or county
15 ordinances.

16 (6) Evidence that the applicant possesses or reasonably
17 expects to obtain all funds or financing necessary for the
18 entire proposed operation.

19 (7) The names of all persons who have a direct or
20 indirect ownership interest of 5% or more in the riverboat
21 gaming operation for which the license is sought. If the
22 applicant is a trust, the application shall disclose the
23 names and addresses of the trustees and beneficiaries; if a
24 corporation, the names and addresses of stockholders,
25 officers and directors; if a partnership, the names and
26 addresses of partners, both general and limited; or, if a
27 limited liability company, the names and addresses of
28 members.

29 (8) Such other information and details as the commission
30 may require by regulation.

(b) Application fee.--An applicant for an operator license must pay a nonrefundable application fee as determined by the commission, but no less than \$250,000.

(c) Notification as to completeness.--The commission shall notify an applicant for an operator license within 30 days of the filing of an application whether the application is complete or additional information will be required. The commission shall notify an applicant within 30 days of receiving a supplemental submission whether the application is complete or additional information will be required.

§ 7130. Suitability for operator license.

(a) General criteria.--The commission shall determine the suitability of each applicant for or holder of an operator license based upon such suitability criteria as the commission shall prescribe to ensure that:

(1) The applicant is of good character, has honesty and integrity.

(2) The applicant's prior activities, including criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this Commonwealth or to the effective regulation and control of gaming.

(3) The applicant has adequate business probity, competence and experience in gaming.

(b) Additional criteria.--In considering the suitability of an applicant for or holder of an operator license, the commission may concurrently consider the suitability of any person:

(1) who holds any equity interest or creditor interest in the applicant or holder;

(2) who holds or is proposed to receive any supplier

1 license or occupation license with respect to the applicant
2 or holder; or

3 (3) who is affiliated with the applicant or holder.

4 (c) Exception.--Notwithstanding any other provisions of this
5 chapter, the commission shall not award operator licenses to any
6 persons who have been convicted of any felony criminal violation
7 in this or any other jurisdiction.

8 § 7131. Criteria for award of operator licenses.

9 In determining whether or, in the case of multiple applicants
10 competing for a limited number of operator licenses within the
11 same classification of county, to whom to grant an operator
12 license, the commission shall consider the following factors:

13 (1) the location of the proposed riverboat operation,
14 including the site development plan;

15 (2) the financial ability of the applicant to meet
16 commitments made pursuant to its application under this
17 chapter;

18 (3) the commitment and successful operations of the
19 applicant in other gaming jurisdictions;

20 (4) the potential for new job creation that will result
21 from granting a license to the applicant;

22 (5) the applicant's good faith affirmative action plan
23 to recruit, train and upgrade minorities in all employment
24 classifications therein;

25 (6) the facilities or proposed facilities for the
26 conduct of riverboat operations, including the size,
27 suitability and quality of the proposed facilities;

28 (7) the extent to which the applicant's proposed
29 riverboat operations and any associated nongaming businesses
30 could reasonably be expected to encourage interstate tourism

1 to this Commonwealth;

2 (8) the highest prospective total revenue to be
3 collected by the Commonwealth from the conduct of riverboat
4 gaming as determined by studies and projections done either
5 in accordance with standards and regulations of the
6 commission or by an independent organization approved by the
7 commission;

8 (9) the level of local governmental support for the
9 riverboat operation;

10 (10) the history of the applicant's financial stability;

11 (11) the background and history of the applicant's
12 operations in other gaming jurisdictions, including, but not
13 limited to, the applicant's history of compliance with the
14 laws of the jurisdictions in which it operates;

15 (12) the history and success of the applicant in
16 developing tourism facilities ancillary to gaming
17 development; and

18 (13) such other factors as the commission may determine
19 are relevant to the policies of this chapter, such factors
20 having been set forth by regulations adopted pursuant to the
21 provisions of this chapter.

22 § 7132. Award and appeal of operator licenses.

23 (a) Award of license.--The following procedures shall govern
24 the award of operator licenses and appeals from decisions of the
25 commission with respect to operator licenses:

26 (1) Applicants for an operator license who complete the
27 application process shall have an opportunity to make a
28 presentation at a hearing before the commission within 90
29 days after the application is complete. The commission shall
30 establish procedures for the hearings and shall allow

1 applicants for operator licenses to present oral and written
2 information to assist the commission in evaluating the merits
3 of the application. The commission shall also establish rules
4 and procedures to enable members of the public, including,
5 but not limited to, elected public officials, to comment on
6 the various applications for operator licenses.

7 (2) The commission shall review all information
8 available to it concerning applicants for operator licenses,
9 including, but not limited to, application materials, the
10 results of background investigations that shall be conducted
11 of all applicants and information presented at the
12 presentations described in paragraph (1).

13 (3) The commission shall have full and absolute power
14 and authority to award operator licenses in the manner it
15 determines best satisfies the standards and criteria and
16 implements the purposes and legislative intent of this
17 chapter after a thorough evaluation of all relevant
18 information and circumstances. All decisions by the
19 commission to grant an operator license shall be by majority
20 vote.

21 (4) If the commission awards an operator license, the
22 commission shall prepare an award notification stating that
23 the commission has complied with the procedures set forth in
24 this section and has determined that the applicant satisfies
25 the criteria set forth in this chapter and that the award is
26 consistent with the purposes and policies of this chapter.
27 The commission shall notify all applicants for operator
28 licenses of the awards and provide for notice to members of
29 the public.

30 (5) The commission's award of an operator license shall

1 not be stayed during the pendency of a review of the
2 commission's award of the license unless otherwise ordered by
3 the Commonwealth Court and upon the posting of a bond by the
4 protestant in an amount approved by the court, with
5 appropriate security, conditioned that, if the protestant's
6 protest of the commission's award of an operator license is
7 denied, the protestant shall pay all damages to any party
8 resulting from delays occasioned by the litigation.

9 (b) Right to protest.--An applicant who has been denied the
10 award of an operator license by the commission and who is
11 aggrieved in connection therewith may protest to the commission
12 in writing. All protests under this subsection must be made
13 within seven days after the denial of or failure to award an
14 operator license to the protestant. No person other than a
15 denied applicant shall have standing to protest any license
16 award or denial by the commission.

17 (c) Authority to resolve protest.--The commission shall have
18 the authority to settle and resolve a protest of an aggrieved
19 applicant concerning the denial of the application or failure to
20 award an operator license to the aggrieved applicant.

21 (d) Decision.--If the protest is not resolved by mutual
22 agreement, the commission shall promptly, but in no event later
23 than 30 days from the filing of the protest, issue a decision in
24 writing. The decision shall:

25 (1) State the reasons for the action taken.

26 (2) Inform the protestant of his right to file an action
27 in Commonwealth Court as provided in subsection (f).

28 (e) Notice of decision.--A copy of the decision under
29 subsection (d) shall be delivered by registered or certified
30 mail to the protestant and any other person determined by the

1 commission to be affected by the decision.

2 (f) Finality of decision.--A decision under subsection (d)
3 shall be final and conclusive unless the aggrieved applicant
4 files an action challenging the decision of the commission in
5 Commonwealth Court within 14 days of receipt of the decision. No
6 action may be commenced in Commonwealth Court under this
7 subsection until the protestant has exhausted the administrative
8 remedies provided for in this section.

9 (g) Affirmation of commission actions.--If an action under
10 subsection (f) is timely filed in Commonwealth Court, the court
11 shall affirm the commission's actions in connection with the
12 denial of an operator license or failure to award an operator
13 license to the aggrieved applicant if it determines that the
14 commission has made no errors of law and that its findings are
15 not arbitrary or capricious.

16 § 7133. Terms and conditions of operator licenses.

17 (a) Issuance.--The commission may issue a license to an
18 operator if it is satisfied that the applicant has complied with
19 all of the appropriate requirements for licensure and the
20 commission determines that the issuance of the license best
21 satisfies the standards and criteria and implements the purposes
22 and legislative intent of this chapter.

23 (b) Contents of operator licenses.--An operator license
24 awarded by the commission shall specify:

25 (1) The name of the licensee.

26 (2) The place where the riverboat will operate.

27 (3) Such other information as the commission by
28 regulation shall require.

29 (c) Transferability of operator license.--An operator
30 license is not transferable and relates only to the specific

1 site and operator identified therein.

2 (d) Term of operator license.--The term of an operator
3 license shall be two years from the date of issuance or most
4 recent renewal, as applicable.

5 (e) Limitation on operator license.--An operator license
6 awarded by the commission shall limit the operator to conduct
7 riverboat gaming only on eligible waters located in or adjacent
8 to a host municipality.

9 (f) Permanent docking.--All operator licenses shall permit
10 continuous docking of riverboats and dockside gaming, including
11 riverboats or barges within basins which are adjacent to such
12 eligible waters.

13 (g) Improvements permitted.--Improvements made to or
14 adjacent to eligible waters shall be permitted and may be
15 required by the commission to minimize navigational hazards and
16 maximize public safety. All improvements shall be subject to
17 commission approval. All improvements shall satisfy all
18 environmental standards and requirements mandated by applicable
19 Federal and State law and regulations.

20 § 7134. Obligations of operator licensees.

21 Any person who holds an operator license issued under this
22 chapter shall:

23 (1) Be incorporated or otherwise organized and in good
24 standing in this Commonwealth or incorporated or otherwise
25 organized in another state and qualified to do business in
26 this Commonwealth. For the purpose of the corporate net
27 income tax, such corporation shall be considered a
28 "corporation" as defined in Article IV of the act of March 4,
29 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

30 Such corporation, limited liability company or business trust

1 shall not elect to be treated as a Pennsylvania S
2 corporation.

3 (2) Maintain an office in this Commonwealth.

4 (3) Comply with all of the requirements of this chapter,
5 the regulations of the commission and the laws of this
6 Commonwealth.

7 (4) Maintain a ledger in the principal office of the
8 company in this Commonwealth which shall:

9 (i) At all times reflect the ownership of interests
10 in the licensee, including every class of security issued
11 by the licensee, provided that, with respect to a
12 publicly traded corporation, the ledger may initially
13 consist of a copy of its latest list of record equity
14 securityholders and thereafter be maintained by adding a
15 copy of such material as it regularly receives from the
16 transfer agent for its equity securities of any class
17 which is outstanding.

18 (ii) Be available for inspection by the commission
19 at all reasonable times without notice.

20 (5) Conduct gaming only as authorized under this chapter
21 and by regulations of the commission.

22 (6) Purchase or lease gaming devices only from the
23 holder of a valid supplier license. However, a holder of an
24 operator license may transfer and receive properly obtained
25 gaming devices between affiliated companies that hold gaming
26 licenses in other jurisdictions.

27 (7) To the extent required by this chapter, employ only
28 persons who hold valid occupational licenses.

29 (8) Adopt, subject to the approval of the commission, an
30 internal control system designed to safeguard assets and

1 revenues.

2 (9) Maintain books and records in accordance with
3 regulations promulgated by the commission and prepare such
4 reports as the commission may require.

5 (10) Cooperate fully in any background or other
6 investigation conducted by the commission or by any law
7 enforcement agency.

8 (11) Provide all financial, management, background and
9 other information as may be requested by the commission
10 regarding itself and any affiliated company.

11 (12) Seek approval for any assignment or transfer of an
12 ownership interest of 5% or more in a licensee, except as
13 otherwise permitted by regulations or orders of the
14 commission.

15 (13) Notify the commission within 30 days of any
16 transaction involving the incurrence of any indebtedness in
17 connection with the construction, operation or expansion of a
18 riverboat gaming facility in this Commonwealth when such
19 indebtedness exceeds \$300,000.

20 (14) Report any change of personnel among the licensee's
21 officers, board of directors or key executives.

22 (15) To the extent allowed by applicable law, use the
23 licensee's best efforts to give priority to residents of this
24 Commonwealth in the hiring of employees.

25 § 7135. Prohibition on assignment; exception.

26 An operator licensee shall not grant, assign or contract to
27 turn over the license or right to operate a riverboat to another
28 person, except that an operator licensee may make collateral
29 assignment of the license to a financing institution or lender
30 with the approval of the commission.

1 § 7136. Renewal of operator licenses.

2 Subject to the power of the commission to deny, revoke or
3 suspend licenses, any operator license in force shall be renewed
4 biannually by the commission upon the proper application for
5 renewal and payment of a license renewal fee of \$25,000. The
6 application for renewal and application fee shall be filed with
7 the commission no later than 120 days before the expiration of
8 the current license, and all license fees and taxes as required
9 by law shall be paid to the commission on or before the date of
10 expiration of the current license.

11 § 7137. Denial of license; revocation for unsuitability;
12 forfeiture.

13 (a) Denial of license.--The commission shall have full
14 authority to deny any application or revoke any operator license
15 for any cause which it deems reasonable.

16 (b) Revocation for unsuitability.--If at any time the
17 commission determines that it has reasonable grounds to believe
18 that any holder of an operator license may be unsuitable to
19 continue to hold an operator license under this chapter having
20 due consideration for the protection of the health, safety,
21 morals and general welfare of this Commonwealth and for the
22 reputation of the Commonwealth's gaming industry, the commission
23 shall initiate an investigation and hearing and may, based upon
24 its determination thereupon, suspend, limit or revoke any
25 license. Upon suspension or revocation of an operator license,
26 the licensee must immediately cease all gaming.

27 (c) Forfeiture.--If the recipient of any operator license
28 fails to begin development of the site to which the license
29 relates within one year of the receipt of such license or fails
30 to begin gaming operations within three years of the receipt of

1 such license, then the license shall be deemed to be forfeited
2 unless, for good cause, the commission has previously granted an
3 appropriate extension of time.

4 § 7138. Supplier licenses authorized.

5 The commission is authorized to award supplier licenses to
6 suppliers. It shall be unlawful to manufacture, distribute,
7 assemble, produce, sell, lease or otherwise provide gaming
8 devices without a supplier license.

9 § 7139. Application for supplier license; application fee.

10 (a) Required information.--Application for a supplier
11 license shall be in a form and contain such information the
12 commission prescribes, including, but not limited to, all of the
13 following:

14 (1) The name of the proposed licensee.

15 (2) The location of the proposed operation.

16 (3) The names of all persons who have a direct or
17 indirect ownership interest of 5% or more in the supplier's
18 operation for which the license is sought. If the applicant
19 is a trust, the application shall disclose the names and
20 addresses of the trustee and beneficiaries; if a corporation,
21 the names and addresses of officers, directors and
22 stockholders; if a partnership, the names and addresses of
23 partners, both general and limited; or, if a limited
24 liability company, the names and addresses of the members.

25 (4) The nature of the gaming devices to be sold, leased
26 or provided.

27 (5) Such other information and details as the commission
28 may require by regulation.

29 (b) Application fee.--An applicant for a supplier license
30 must pay a nonrefundable application fee as determined by the

1 commission.

2 (c) Notification as to completeness.--The commission shall
3 notify an applicant for a supplier license within 60 days of the
4 filing of an application whether the application is complete or
5 additional information will be required. The commission shall
6 notify applicants within 30 days of receiving a supplemental
7 submission whether the application is complete or additional
8 information will be required.

9 § 7140. Background investigation.

10 The commission shall require an applicant for a supplier
11 license to undergo a complete background investigation. The
12 applicant shall be responsible for the payment of all costs
13 incurred for the investigation which are not covered by the
14 application fee.

15 § 7141. Suitability for supplier license.

16 (a) General criteria.--The commission shall determine the
17 suitability of each applicant for or holder of a supplier
18 license based upon such suitability criteria as the commission
19 shall prescribe to ensure that:

20 (1) The applicant is of good character, has honesty and
21 integrity.

22 (2) The applicant's prior activities, including criminal
23 record, if any, reputation, habits and associations do not
24 pose a threat to the public interest of the Commonwealth or
25 to the effective regulation and control of gaming.

26 (3) The applicant possesses the knowledge, experience
27 and qualifications that the commission deems necessary to
28 perform the tasks for which the supplier license is sought.

29 (b) Additional criteria.--In considering the suitability of
30 an applicant for or holder of a supplier license, the commission

1 may concurrently consider the suitability of any person:

2 (1) who holds any equity interest or creditor interest
3 in the applicant or holder;

4 (2) who is a principal manager to the applicant or
5 holder; or

6 (3) who is affiliated with or involved in the business
7 affairs of the applicant or holder.

8 § 7142. Terms and conditions of supplier licenses.

9 (a) Issuance.--The commission shall issue a license to a
10 supplier if it is satisfied that the applicant has complied with
11 all of the appropriate requirements for licensure. Supplier
12 licenses shall be personal to the licensee and shall entitle the
13 licensee to do business with any riverboat in this Commonwealth.

14 (b) Term of supplier licenses.--The term of a supplier
15 license shall be one year from the date of issuance or most
16 recent renewal, as applicable.

17 (c) Supplies, devices and equipment must conform to
18 requirements.--A person holding a supplier license may not
19 distribute gaming supplies, devices and equipment unless those
20 supplies, devices and equipment conform to standards adopted by
21 the commission.

22 § 7143. Renewal of supplier licenses.

23 Subject to the power of the commission to deny, revoke or
24 suspend licenses, any supplier license in force shall be renewed
25 annually by the commission upon the proper application for
26 renewal and payment of a license renewal fee to be determined by
27 the commission. The application for renewal and application fee
28 shall be filed with the commission no later than 120 days before
29 the expiration of the current license, and all license fees and
30 taxes as required by law shall be paid to the commission on or

1 before the date of expiration of the current license.

2 § 7144. Denial of license; revocation for unsuitability.

3 (a) Authority.--The commission shall have full authority to
4 deny any application or revoke any supplier license for any
5 cause which it deems reasonable.

6 (b) Investigation and hearing.--If at any time the
7 commission determines that it has reasonable grounds to believe
8 that any licensee may be unsuitable to continue to hold a
9 supplier license, the commission shall initiate an investigation
10 and hearing and may, based upon its determination thereupon,
11 suspend, limit or revoke any license. Upon suspension or
12 revocation of a supplier license, the licensee must cease the
13 performance of any activity requiring a supplier license under
14 this chapter. From and after the revocation or suspension of a
15 licensee's license, the affected licensee shall not receive,
16 directly or indirectly, any compensation, consideration or
17 payment of any kind relating to any activity requiring a
18 supplier license under this chapter, other than in payment for
19 goods or services provided prior to such suspension or
20 revocation.

21 § 7145. Occupational license authorized.

22 The commission is authorized to award occupational licenses
23 for gaming employees. A person, including a company employed by
24 an operator licensee to manage all or any part of its gaming
25 operations, shall not be employed as a gaming employee or a key
26 executive unless the person holds a valid occupational license
27 awarded by the commission.

28 § 7146. Application for occupation license; application fee.

29 (a) Required information.--Application for an occupation
30 license shall be in a form and contain such information the

1 commission prescribes, including, but not limited to, all of the
2 following:

3 (1) The name and address of the applicant.

4 (2) Whether the applicant has been awarded prior
5 occupational licenses related to gaming in this or any other
6 state or nation under this or another name and, if so, the
7 name and state or nation.

8 (3) Whether any license or permit awarded to the
9 applicant has been suspended, restricted, revoked or denied
10 and, if so, the reason for the action and the period of time.

11 (4) If the applicant is a company, the disclosures
12 required by an operator license in section 7129(a)(7)
13 (relating to application for operator license; application
14 fee).

15 (5) Such other information and details as the commission
16 may require by regulation.

17 (b) Application fee.--An applicant for an occupational
18 license must pay a nonrefundable application fee, the amount of
19 which shall be determined by the commission.

20 § 7147. Background investigation.

21 A person seeking an occupational license, including a license
22 for the purpose of managing all or a part of a riverboat gaming
23 operation, shall be required to undergo a background
24 investigation. The applicant shall be responsible for the
25 payment of all costs incurred for the investigation which are
26 not covered by the application fee.

27 § 7148. Standards for award of license.

28 The commission may award an occupational license to an
29 applicant if the applicant:

30 (1) Has paid a nonrefundable fee set by the commission.

1 (2) Is at least 21 years of age if the applicant is to
2 perform any function involving gaming by patrons.

3 (3) Has not been convicted of a felony or any crime
4 involving dishonesty, false statement or moral turpitude
5 under the laws of this Commonwealth, the laws of any other
6 state or the laws of the United States.

7 (4) Has demonstrated a level of skill or knowledge that
8 the commission determines to be sufficient to perform the
9 tasks for which the occupational license is sought.

10 (5) Has satisfied regulations for holding an
11 occupational license as adopted by the commission.

12 § 7149. Reasons for refusing occupational license.

13 The commission may refuse to award an occupational license to
14 a person:

15 (1) who is unqualified to perform the duties required of
16 the applicant;

17 (2) who does not disclose or states falsely any
18 information required by the application;

19 (3) who has been found guilty of a violation of this
20 chapter or whose gaming-related license in another state or
21 nation has been suspended, restricted, revoked or denied for
22 just cause; or

23 (4) whose licensing would, in the opinion of the
24 commission, not be in the best interests of gaming in this
25 Commonwealth.

26 § 7150. Terms and conditions of occupational licenses.

27 (a) Issuance.--The commission shall issue an occupational
28 license to a person if it is satisfied that the applicant has
29 complied with all of the appropriate requirements for licensure.

30 (b) Term.--The term of an occupational license shall be one

1 year from the date of issuance or most recent renewal, as
2 applicable.

3 (c) Temporary occupational licenses.--The commission may
4 issue a temporary occupational license pending issuance of a
5 final license.

6 § 7151. Training of occupational licensees.

7 An operator licensee may enter into an agreement with a
8 school that has been approved by the commission for the training
9 of occupational licensees. Any training program conducted by a
10 school shall be approved by the commission and conducted in
11 accordance with a written agreement between the operator
12 licensee and the school. The training program may be conducted
13 on a riverboat.

14 § 7152. Renewal of occupational licenses.

15 Subject to the power of the commission to deny, revoke or
16 suspend licenses, any occupational license in force shall be
17 renewed annually by the commission upon the proper application
18 for renewal and payment of a license renewal fee to be
19 determined by the commission. The application for renewal and
20 application fee shall be filed with the commission no later than
21 120 days before the expiration of the current license, and all
22 license fees and taxes as required by law shall be paid to the
23 commission on or before the date of expiration of the current
24 license.

25 § 7153. Denial of license; revocation for unsuitability.

26 (a) Denial of license.--The commission shall have full
27 authority to deny any application or revoke any occupational
28 license for any cause which it deems reasonable.

29 (b) Revocation for unsuitability.--If at any time the
30 commission determines that it has reasonable grounds to believe

1 that any licensee may be unsuitable to continue to hold an
2 occupational license under this chapter having due consideration
3 for the protection of the health, safety, morals and general
4 welfare of this Commonwealth and for the reputation of this
5 Commonwealth's gaming industry, the commission shall initiate an
6 investigation and hearing and may, based upon its determination
7 thereupon, suspend, limit or revoke any license. Upon suspension
8 or revocation of an occupational licensee's license, the
9 licensee must cease the provision of all services in any
10 capacity requiring an occupational license under this chapter.
11 From and after the revocation or suspension of an occupational
12 licensee's license, the affected licensee shall not receive,
13 directly or indirectly, any compensation, consideration or
14 payment of any kind relating to the conduct of gaming in any
15 capacity requiring an occupational license other than in payment
16 for services rendered prior to such suspension or revocation.
17 § 7154. Requirement to register and qualify.

18 (a) General rule.--Except as provided in subsection (b),
19 every person who directly or indirectly owns any equity or
20 creditor interest in any applicant for or holder of an operator
21 license under this chapter shall register and qualify with the
22 commission in accordance with regulations prescribed by the
23 commission and shall provide such information as the commission
24 deems necessary to determine the suitability and eligibility of
25 such person to retain such interest.

26 (b) Exceptions.--The following persons are not required to
27 register or qualify under this section:

- 28 (1) an institutional investor;
29 (2) a person who beneficially owns less than 5% of the
30 total equity or creditor interest of the operator licensee;

1 or

2 (3) any other group or class of persons which the
3 commission shall by regulation identify in light of the
4 purpose of this chapter.

5 (c) Fee.--Each registration filed under this section shall
6 be accompanied by an application fee determined by the
7 commission.

8 § 7155. Transfers of interests in operator licensee.

9 (a) Commission approval required.--No operator licensee may
10 issue any equity or creditor interest to any person prior to the
11 commission's determination of the qualification of the proposed
12 subscriber or purchaser to hold the interest under this chapter.
13 Notwithstanding the foregoing, an operator licensee which is a
14 publicly held company may issue equity or creditor interests not
15 exceeding 5% of its equity or creditor interest to any person
16 without the consent of the commission.

17 (b) Certain transfers prohibited.--No person beneficially
18 owning in excess of 5% of the equity or creditor interest of an
19 operator licensee shall transfer all or any portion of its
20 interest in such licensee to any person prior to the
21 commission's determination of the qualification of the proposed
22 transferee to hold such interest under this chapter.

23 (c) Information.--A subscriber or proposed transferee of an
24 interest by an operator licensee shall provide the commission
25 with such information as the commission deems necessary to
26 determine the qualification of the person to whom the interest
27 is proposed to be issued or transferred. The commission shall
28 have 90 days within which to determine the qualification of any
29 subscriber or proposed transferee and to approve or deny the
30 issuance or transfer.

1 § 7156. Finding of suitability; divestiture by persons found
2 unsuitable.

3 (a) Finding of suitability.--The commission shall determine
4 the qualification of any person to acquire or continue to hold
5 any equity or creditor interest in an applicant for or holder of
6 an operator license under this chapter based upon such criteria
7 as the commission shall prescribe for the protection of the
8 public interest in order to ensure that the persons holding
9 securities issued by licensees are of good character, honesty,
10 integrity and financial stability and that they are otherwise
11 qualified to hold the interest, in all cases having due
12 consideration for the protection of the health, safety, morals
13 and general welfare of this Commonwealth and for the reputation
14 of this Commonwealth's gaming industry. The burden of proving
15 qualification to acquire or hold any equity or creditor interest
16 in a licensee shall be on the person acquiring or holding such
17 interest.

18 (b) Unsuitable.--A person shall be conclusively deemed
19 unsuitable to acquire or retain an equity or creditor interest
20 in any applicant for or holder of an operator license if such
21 qualified persons would be unsuitable to receive an operator
22 license under this chapter.

23 (c) Investigation and hearing.--If at any time the
24 commission has reasonable grounds to believe that any person
25 holding any equity or creditor interest in an applicant for or
26 holder of an operator license may be unqualified to retain its
27 interest, the commission shall initiate an investigation and
28 hearing and may, based upon its determination, issue an
29 unsuitability finding and divestiture order to the holder of
30 such interest and the issuer thereof. Upon receipt of a

1 divestiture order, the person holding the interest shall tender
2 its entire interest for purchase to the issuer thereof or a
3 third party on such terms as the commission shall approve.

4 (d) Restrictions.--From and after the time that the
5 commission issues an unsuitability finding and divestiture order
6 to a holder of an equity interest or creditor interest, the
7 person subject to the order shall not:

8 (1) receive, directly or indirectly, any dividend,
9 interest, payment or distribution of any kind with respect to
10 the security to which the order relates; or

11 (2) exercise, directly or indirectly, any voting power
12 or other right with respect to the security to which the
13 order relates. The person subject to the order may, however,
14 receive payment for the sale of its interest on such terms as
15 the commission has approved.

16 § 7157. Power to regulate method and timing of riverboat
17 operations.

18 (a) Regulations.--The commission shall promulgate
19 regulations applicable to the operation of riverboat gaming in
20 this Commonwealth as the commission deems necessary for the
21 protection of the health, safety, morals and general welfare of
22 this Commonwealth and for the reputation of this Commonwealth's
23 gaming industry.

24 (b) Hours and days of operation.--Riverboats shall be
25 allowed to operate 24 hours a day, seven days per week. Operator
26 licensees may, at their option, select hours of operation.

27 § 7158. Wagering.

28 (a) Wagering prohibited except as provided.--Persons
29 licensed under this chapter shall permit no form of wagering
30 except as provided by this chapter.

1 (b) Wagering allowed only on riverboats.--Persons licensed
2 pursuant to this chapter shall receive wagers only from persons
3 present on a riverboat.

4 (c) Gaffed games.--Gaffed games are prohibited.

5 (d) Wagering by gaming employees.--A gaming employee shall
6 not wager on a riverboat where that person is employed.

7 (e) Minimum and maximum wagers.--An operator licensee shall
8 set minimum and maximum wagers on games which may be adjusted
9 from time to time by the operator in the normal course of
10 conducting business. However, changes in minimum wagers at any
11 given table shall not apply to persons already engaged in
12 wagering at that table when the minimum wager is changed.

13 § 7159. Use of chips, tokens, etc.

14 (a) General rule.--All wagering must be conducted with
15 chips, tokens, any object of value including, without
16 limitation, paper tickets, magnetically striped cards, cards
17 with embedded chips or other media which may be exchanged for
18 currency or entered into another game for game credits, or other
19 forms of credit approved by the commission. In addition to the
20 aforementioned methods of wagering, United States coins in the
21 denominations of one cent, five cents, ten cents, twenty-five
22 cents, fifty cents and one dollar may be used to wager.

23 (b) Exchanges.--

24 (1) The operator shall exchange United States currency
25 or other bearer instruments or debit cards of each wagerer
26 for approved chips, tokens or other forms of credit for
27 purposes of wagering on the games.

28 (2) At the request of the wagerer, the operator shall
29 exchange the approved chips, tokens or other forms of credit
30 for United States currency.

(c) Prohibition.--No wagering shall be conducted with United States currency or the currency of any other nation except United States coins in the denominations of one cent, five cents, ten cents, twenty-five cents, fifty cents and one dollar.

§ 7160. Age requirement for patrons and gaming employees.

(a) Wagering.--No person under 21 years of age shall be permitted to place, win, lose or collect any wager. Any person under 21 years of age attempting to place, win, lose or collect a wager or any person attempting to assist a person under 21 years of age to place, win, lose or collect a wager will be guilty of committing a misdemeanor of the third degree.

(b) Patrons.--Except as provided in subsection (c), no person under 21 years of age shall be permitted in the area of a riverboat where gaming is being conducted.

(c) Employees.--No person under 18 years of age shall be employed in any capacity at a riverboat gaming operation. Employees under 21 years of age shall not participate directly or indirectly in any function related to gaming by the patrons.

§ 7161. Gaming debts.

(a) Gaming debts enforceable.--A negotiable instrument evidencing a gaming debt incurred pursuant to this chapter may be enforced by legal process.

(b) Incomplete negotiable instruments.--An operator licensee or an agent of a licensee may accept an incomplete negotiable instrument which:

(1) Is signed by a patron.

(2) States the amount of the debt in figures. An operator licensee or an agent may complete the instrument as is necessary for the instrument to be presented for payment.

(c) Conditions of acceptance; refusal of instruments.--An

1 operator licensee or agent of such licensee:

2 (1) Shall not accept a negotiable instrument which is
3 incomplete, except as authorized in subsection (b).

4 (2) May accept a negotiable instrument that is payable
5 to an affiliate or affiliated company or may complete a
6 negotiable instrument in the name of an affiliate or
7 affiliated company as payee if the negotiable instrument
8 otherwise complies with this subsection and the records of
9 the affiliate or an affiliated company pertaining to the
10 negotiable instrument are made available to the commission
11 upon request.

12 (d) Establishment of accounts.--This section does not
13 prohibit the establishment of an account by a deposit of cash,
14 recognized traveler's check or any other instrument which is
15 generally recognized as equivalent to cash.

16 (e) Unenforceable debts.--Except as provided in this
17 chapter, gaming debts not evidenced by a negotiable instrument
18 are void and unenforceable and do not give rise to any
19 administrative or civil cause of action.

20 (f) Claims resolution.--A claim by a patron of an operator
21 licensee for payment of a gaming debt not evidenced by a
22 negotiable instrument may be resolved by the commission in
23 accordance with its regulations.

24 § 7162. Exclusion or ejection of certain persons from
25 riverboats.

26 The commission shall by regulation provide for the
27 establishment a list of persons who are to be excluded or
28 ejected from any riverboat. The list may include any person
29 whose presence in the establishment is determined by the
30 commission to pose a threat to the interest of this Commonwealth

1 or to licensed gaming, or both.

2 § 7163. Detention of persons.

3 (a) General rule.--Any operator licensee or any of its
4 officers or employees who have probable cause for believing that
5 there has been a violation of this chapter on its riverboat by
6 any person may take that person into custody and detain him on
7 the riverboat in a reasonable manner and for a reasonable length
8 of time. Such a taking into custody and detention do not render
9 the operator licensee or its officers, employees or agents
10 criminally or civilly liable unless it is established by clear
11 and convincing evidence that the taking into custody and
12 detention are unreasonable under all the circumstances.

13 (b) Posting requirement.--An operator licensee or its
14 officers or employees is not entitled to the immunity from
15 liability provided in subsection (a) unless there is displayed
16 in a conspicuous place in the establishment a notice in boldface
17 type clearly legible and in substantially this form:

18 Any operator licensee or any officers or employees of a
19 licensee having probable cause to believe that any person has
20 violated any provision of the Pennsylvania Waterfront
21 Development and Riverboat Gaming Act may detain that person
22 in the establishment.

23 § 7164. Exemption from civil and criminal liability.

24 An operator licensee or its officers, employees or agents may
25 question any person on a riverboat suspected of violating any
26 provision of this chapter. An operator licensee or its officers,
27 employees or agents is not criminally or civilly liable:

28 (1) on account of any such questioning; or

29 (2) for reporting to the commission or law enforcement
30 authorities the person suspected of the violation.

1 § 7165. Recordkeeping and reporting.

2 (a) Records.--Each operator licensee shall keep its books
3 and records to clearly show the total amount of gross gaming
4 revenue, adjusted gross receipts and other revenues received.

5 (b) Not public records.--The books and records kept by an
6 operator licensee relating to gaming operations as provided by
7 this section are not to be considered public records. The
8 commission may, however, publish and disseminate gaming revenues
9 of each operator licensee at such frequency and in such detail
10 as it deems appropriate.

11 § 7166. Internal control systems; internal audits.

12 (a) Elements.--Each operator licensee shall adopt an
13 internal control system which shall include, without limitation,
14 provisions for:

15 (1) the safeguarding of its assets and revenues,
16 especially the recording of cash and evidences of
17 indebtedness; and

18 (2) the provision of reliable records, accounts and
19 reports of transactions, operations and events, including
20 reports to the commission.

21 (b) Purposes.--The internal control system must be designed
22 to reasonably ensure that:

23 (1) Assets are safeguarded.

24 (2) Financial records are accurate and reliable.

25 (3) Transactions are performed only in accordance with
26 management's general or specific authorization.

27 (4) Transactions are recorded adequately to permit
28 proper reporting of gaming revenue and of fees and taxes and
29 to maintain accountability for assets.

30 (5) Access to assets is permitted only in accordance

1 with management's specific authorization.

2 (6) Recorded accountability for assets is compared with
3 actual assets at reasonable intervals and appropriate action
4 is taken with respect to any discrepancies.

5 (7) Functions, duties and responsibilities are
6 appropriately segregated and performed in accordance with
7 sound practices by competent, qualified personnel.

8 (c) Written internal control procedures.--Each operator
9 licensee and each applicant for an operator license shall
10 describe, in such manner as the commission may approve or
11 require, its administrative and accounting procedures in detail
12 in a written system of internal control. Each operator licensee
13 and applicant for an operator license shall submit a copy of its
14 written system to the commission. Each written system must
15 include:

16 (1) An organizational chart depicting appropriate
17 segregation of functions and responsibilities.

18 (2) A description of the duties and responsibilities of
19 each position shown on the organizational chart.

20 (3) A detailed, narrative description of the
21 administrative and accounting procedures designed to satisfy
22 the requirements of section 7165 (relating to recordkeeping
23 and reporting).

24 (4) A written statement signed by the licensee's chief
25 financial officer and the licensee's chief executive officer
26 attesting that the system satisfies the requirements of this
27 section.

28 (5) If the written system is submitted by an applicant,
29 a letter from an independent certified public accountant
30 stating that the applicant's written system has been reviewed

by the certified public accountant and complies with the requirements of this section.

(6) Such other items as the commission may require.

(d) Minimum standards.--The commission shall adopt and publish minimum standards for internal control procedures.

§ 7167. Responsibilities of Department of Revenue.

The department is charged with the administration and collection of the taxes imposed under this chapter. The department shall have the power to prescribe the forms to be employed.

§ 7168. Riverboat Gaming Tax.

A tax to be known as the Riverboat Gaming Tax is imposed on the adjusted gross receipts received from games authorized by this chapter at the rate of 15%. This tax shall be paid by all operator licensees 20 days after the close of each month in which wagers were made. Twenty million dollars from all fees, fines, penalties, riverboat gaming taxes and other moneys paid, received, recovered and collected under the provisions of this chapter shall be placed in the Gaming Commission Fund by the State Treasurer. All other money collected under this chapter shall be placed in the Riverboat Gaming Fund.

§ 7169. Monthly reports.

In order to determine the amount of tax payable under this chapter, it shall be the duty of every operator licensee to submit to the department, upon forms prepared and furnished by the department, monthly reports under oath or affirmation of an operator licensee's principal officer, setting forth the following financial information concerning the preceding fiscal month:

(1) The number of admissions.

- 1 (2) The amount of gross receipts.
- 2 (3) The amount of adjusted gross receipts.
- 3 (4) The amount of taxes paid to the department.
- 4 (5) Such other information as the department shall
- 5 require.

6 § 7170. Limitations on taxes and license fees; exception.

7 No political subdivision, authority or governmental or quasi-
8 governmental instrumentality or taxing authority of this
9 Commonwealth shall impose any tax, fee or assessment on the
10 conduct of gaming or on operator licensees except as authorized
11 under this chapter, including, without limitation, a permit,
12 privilege, docking, gaming device, occupation or excursion tax
13 or fee. Nothing in this chapter precludes the imposition of
14 local real property taxes, sales taxes, hotel taxes or normal
15 fees for standard municipal services. This section shall not be
16 deemed to exempt operator licensees from taxes imposed under the
17 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
18 of 1971.

19 § 7171. Riverboat Gaming Fund.

20 (a) Fund established.--There is hereby established the
21 Riverboat Gaming Fund. Revenues from the Riverboat Gaming Fund
22 shall be used for the purposes provided in subsection (b). The
23 State Treasurer shall be custodian of the Riverboat Gaming Fund,
24 which shall be subject to the provisions of law applicable to
25 funds listed in section 302 of the act of April 9, 1929
26 (P.L.343, No.176), known as The Fiscal Code. Taxes and other
27 revenues imposed and collected pursuant to this chapter shall be
28 received by the department and paid to the State Treasurer and,
29 along with interest and penalties, less any refunds and credits
30 paid, shall be credited to the Riverboat Gaming Fund not less

1 frequently than monthly. During any period before the credit of
2 moneys to the Riverboat Gaming Fund, interest earned on moneys
3 received by the department and paid to the State Treasurer under
4 this section shall be deposited into the Riverboat Gaming Fund.

5 (b) Distribution of revenue.--

6 (1) The State Treasurer shall make distributions
7 according to the following schedule:

8 (i) Forty-nine percent of the revenues in the
9 Riverboat Gaming Fund annually to the Lottery Fund for
10 use in the Pharmaceutical Assistance Contract for the
11 Elderly as established in the act of August 26, 1971
12 (P.L.351, No.91) known as the State Lottery Law.

13 (ii) Forty-nine percent of the revenues in the
14 Riverboat Gaming Fund to the Commonwealth's 501 public
15 school districts for the purpose of property tax
16 reduction in accordance with the following formula. The
17 total moneys available each school year shall be divided
18 by the Statewide total average daily membership, and that
19 amount shall be multiplied by the average daily
20 membership of each school district. The result of this
21 calculation shall be multiplied by a school district's
22 market value personal income aid ratio.

23 (iii) One percent of the revenues to be divided
24 among the eligible counties where each licensed riverboat
25 is operating. The money shall be divided based on the
26 ratio the Riverboat Gaming Tax collected in a county
27 bears to the total Riverboat Gaming Tax collected in this
28 Commonwealth.

29 (iv) One percent of the revenues to be divided among
30 the municipalities where each licensed riverboat is

operating. The money shall be divided based on the ratio the Riverboat Gaming Tax collected in a municipality bears to the total Riverboat Gaming Tax collected in this Commonwealth.

(2) The revenues in the Riverboat Gaming Fund shall not be used to replace Federal or State funds.

§ 7172. Prohibited activities; penalties.

(a) Exclusion of persons.--A person who uses or possesses, with intent to use, a device or system to assist in the following activities shall be ejected from a riverboat and may be excluded from a riverboat pursuant to regulations established by the commission:

(1) Projecting the outcome of a game.

(2) Keeping track of cards played other than by a person's own mental abilities.

(3) Analyzing the probability of the occurrence of an event relating to a game.

(b) Misdemeanor offenses.--A person commits a misdemeanor of the first degree for any of the following:

(1) Wagering or accepting a wager in violation of any provision of section 7158 (relating to wagering).

(2) Cheating at a game.

(3) Instructing another person in cheating or in the use of any device for that purpose with the knowledge or intent that the information or use so conveyed may be employed to violate any provision of this chapter.

(4) Making a false statement on any application submitted pursuant to this chapter.

(5) Knowingly permitting a person under 21 years of age to wager in violation of section 7160 (relating to age

1 requirement for patrons and gaming employees).

2 (c) Felony offenses.--A person commits a felony of the third
3 degree for any of the following:

4 (1) Offering, promising or giving anything of value or
5 benefit to a person who is connected with a riverboat gaming
6 operation, including, but not limited to, an officer or
7 employee of any person licensed under this chapter, as part
8 of an agreement or arrangement or with the intent that the
9 promise or thing of value or benefit will influence the
10 actions of the person to whom the offer, promise or gift was
11 made in order to influence or attempt to influence the
12 outcome of a game or to influence official action of a member
13 of the commission.

14 (2) Soliciting or knowingly accepting or receiving a
15 promise of anything of value or benefit while the person is
16 connected with a riverboat, including, but not limited to, an
17 officer or employee of any person licensed under this
18 chapter, pursuant to an understanding or arrangement or with
19 the intent that the promise or thing of value or benefit will
20 influence the actions of the person to affect or attempt to
21 affect the outcome of a game or to influence official action
22 of a member of the commission.

23 (3) Manufacturing, selling or distributing any card,
24 chip or gaming device which is intended to be used to violate
25 any provision of this chapter.

26 (4) Placing a bet after acquiring knowledge not
27 available to all players of the outcome of the game which is
28 the subject of the bet or aiding a person to acquire
29 knowledge for the purpose of placing a bet contingent on that
30 outcome.

1 (5) Knowingly using:

2 (i) a counterfeit chip or token in a game;

3 (ii) a chip or token which has not been approved by

4 the commission; or

5 (iii) a coin not of the same denomination as the

6 coin intended to be used in the game.

7 (6) Possession of a slug or paraphernalia for the

8 manufacturing of slugs.

9 (7) Possession of:

10 (i) a key or device designed for the purpose of

11 opening, entering or affecting the operation of a game,

12 drop box or electronic or mechanical device connected

13 with a game or for removing coins, tokens, chips or other

14 contents of a game; or

15 (ii) any other device intended to be used to violate

16 a provision of this chapter.

17 Subparagraphs (i) and (ii) do not apply to an operator

18 licensee or to an employee of an operator licensee acting in

19 furtherance of the employee's employment.

20 (8) Claiming, collecting or taking or attempting to

21 claim, collect or take money or anything of value in or from

22 a game with intent to defraud, without having made a wager

23 contingent on winning a game or claiming, collecting or

24 taking an amount of money or thing of value of greater value

25 than the amount won.

26 (9) Reducing the amount wagered or canceling the bet

27 after acquiring knowledge of the outcome of the game or other

28 event which is the subject of the bet, including pinching

29 bets.

30 (10) Manipulating with the intent to cheat any component

1 of a gaming device in a manner contrary to the designed and
2 normal operational purpose of the component, including, but
3 not limited to, varying the pull of the handle of a slot
4 machine, with knowledge that the manipulation affects the
5 outcome of the game or with knowledge of any event that
6 affects the outcome of the game.

7 (11) Marking, altering or otherwise modifying any gaming
8 device in a manner that:

9 (i) affects the result of a wager by determining win
10 or loss; or

11 (ii) alters the normal criteria of random selection
12 which affects the operation of a game or which determines
13 the outcome of a game.

14 (12) Willfully failing to report, account for or pay any
15 license fee, tax or other payment required by this chapter.

16 (13) Knowingly possessing any slot machine or gaming
17 device which has been manufactured, sold or distributed in
18 violation of this chapter.

19 (d) Civil penalties.--In addition to other penalties
20 provided, any person who:

21 (1) conducts a gaming operation without first obtaining
22 a license to do so;

23 (2) continues to conduct such games after revocation of
24 his license; or

25 (3) conducts or allows to be conducted any unauthorized
26 games on a riverboat

27 shall be subject to a civil penalty equal to the amount of gross
28 receipts derived from wagering on the games, whether authorized
29 or unauthorized, conducted on that day, as well as confiscation
30 and forfeiture of all game equipment used in the conduct of

1 unauthorized games.

2 (e) Rebuttable inference of intent to cheat.--Possession of
3 any of the devices described in subsection (a) or (c)(3), (5),
4 (7) or (8) permits a rebuttable inference that the possessor
5 intended to use them for cheating.

6 (f) Certain persons barred from riverboats.--A person
7 convicted of a felony under this section shall be excluded from
8 all riverboats.

9 (g) Venue.--An action to prosecute a crime occurring on a
10 riverboat shall be tried in the county where the riverboat is
11 docked.

12 § 7173. Riverboat liquor license.

13 (a) Establishment.--There is hereby established, and the
14 Pennsylvania Liquor Control Board shall have the authority to
15 issue, a retail liquor license known as a riverboat liquor
16 license for the brewing and sale of liquor, alcohol and malt or
17 brewed beverages for consumption only on the premises of a
18 riverboat and its adjacent support facilities licensed and
19 operated under the provisions of this chapter.

20 (b) Hours of operation.--The holder of a riverboat liquor
21 license may sell and serve liquor, alcohol and malt or brewed
22 beverages only during the hours of operation of the riverboat as
23 approved by the commission.

24 (c) License conversion.--Upon receipt of written
25 notification from the commission of the successful applicants
26 for operator licenses issued under this chapter, the
27 Pennsylvania Liquor Control Board shall convert any restaurant
28 liquor license held by or transferred to the successful
29 applicant into a riverboat liquor license.

30 § 7174. Cooperation.

1 The Pennsylvania Liquor Control Board and the commission
2 shall enter into cooperative agreements to facilitate the
3 effective and efficient administration of the provisions of this
4 chapter.

5 § 7175. Administrative procedures.

6 Except with respect to the award of operator licenses under
7 this chapter, a person may appeal from any final order, decree,
8 decision, determination or ruling of the commission as provided
9 in 2 Pa.C.S. (relating to administrative law and procedure).

10 § 7176. Local waterfront commissions.

11 (a) Local waterfront development commission established.--
12 Within 30 days of the filing of an application for a riverboat
13 gaming license in a host municipality, the mayor of such
14 municipality shall establish and appoint members to a local
15 waterfront development commission.

16 (b) Commission purpose.--For purposes of this chapter, the
17 local waterfront development commission shall have the following
18 powers and duties:

19 (1) Review and approve the proposed site development
20 plan prepared by an operator license applicant who proposes
21 to dock a riverboat in the host municipality.

22 (2) Ensure that construction and development of an
23 operator licensee's location in the host municipality is in
24 accordance with the approved site development plan.

25 (3) Notify the commission of an operator licensee's
26 failure to comply with provisions of the approved site
27 development plan. Nothing in this section shall preclude the
28 mayor of a host municipality from delegating to a local
29 waterfront development commission any other local powers and
30 duties.

1 Section 2. This act shall take effect in 60 days.