

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2812 Session of  
2008

INTRODUCED BY SCHRODER, HENNESSEY, M. O'BRIEN, KAUFFMAN, CLYMER,  
VULAKOVICH AND ROCK, OCTOBER 3, 2008

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, OCTOBER 3, 2008

AN ACT

1 Amending Title 4 (Amusements) of the Pennsylvania Consolidated  
2 Statutes, further providing for the membership, terms of  
3 office, procedure, and qualifications and restrictions of the  
4 Pennsylvania Gaming Control Board.

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

7 Section 1. Section 1201(b), (b.1), (d), (f) and (h) of Title  
8 4 of the Pennsylvania Consolidated Statutes are amended and the  
9 section is amended by adding a subsection to read:

10 § 1201. Pennsylvania Gaming Control Board established.

11 \* \* \*

12 (b) Membership.--The board shall consist of [the following  
13 members:

14 (1) Three members appointed by the Governor.

15 (2) One member appointed by each of the following:

16 (i) The President pro tempore of the Senate.

17 (ii) The Minority Leader of the Senate.

18 (iii) The Speaker of the House of Representatives.

1 (iv) The Minority Leader of the House of  
2 Representatives.] five members appointed by the Governor  
3 with the advice and consent of a majority of the members  
4 of the Senate. No more than three members of the board  
5 may be of the same political party.

6 (b.1) Removal.--A member of the board shall be removed from  
7 office by the [appointing authority] Governor:

8 (1) for misconduct in office, willful neglect of duty or  
9 conduct evidencing unfitness for office or incompetence; or

10 (2) upon conviction of an offense graded as a felony, an  
11 infamous crime, an offense under this part or an equivalent  
12 offense under Federal law or the law of another jurisdiction.

13 \* \* \*

14 (d) Terms of office.--Upon the expiration of a term of a  
15 member appointed under subsection (c), the following shall  
16 apply:

17 (1) The term of office of [a gubernatorial] an appointee  
18 shall be three years and until a successor is appointed and  
19 qualified.

20 [(2) The term of office of a legislative appointee shall  
21 be two years and until a successor is appointed and  
22 qualified.

23 (3) A legislative appointee shall serve no more than  
24 three full consecutive terms.]

25 (4) [A gubernatorial] An appointee shall serve no more  
26 than [two] three full consecutive terms.

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

29 [(6) A member appointed to fill a vacancy under  
30 paragraph (3) may serve three full terms following the

1 expiration of the term related to the vacancy.]

2 (7) A member appointed to fill a vacancy [under  
3 paragraph (4) may serve two] may serve three full terms  
4 following the expiration of the term related to the vacancy.

5 (d.1) Transition of board members.--Upon the effective date  
6 of this subsection, current members of the board shall remain in  
7 office until the length of their current term expires.

8 \* \* \*

9 (f) [Qualified majority vote.--

10 (1) Except as permitted in paragraphs (2) and (3), any  
11 action, including, but not limited to, the approval,  
12 issuance, denial or conditioning of any license by the board  
13 under this part or the making of any order or the  
14 ratification of any permissible act done or order made by one  
15 or more of the members, shall require a qualified majority  
16 vote consisting of at least one gubernatorial appointee and  
17 the four legislative appointees.

18 (2) Any action to suspend or revoke, not renew, void or  
19 require forfeiture of a license or permit issued under this  
20 part, to impose any administrative fine or penalty under this  
21 part or to issue cease and desist orders or similar  
22 enforcement actions shall require a majority vote of all the  
23 members appointed to the board.

24 (3) Notwithstanding any other provision of this part or  
25 65 Pa.C.S. § 1103(j) (relating to restricted activities), a  
26 member shall disclose the nature of his disqualifying  
27 interest, disqualify himself and abstain from voting in a  
28 proceeding under this part in which his objectivity,  
29 impartiality, integrity or independence of judgment may be  
30 reasonably questioned, as provided in subsection (h)(6). If a

1 legislative appointee has disqualified himself, the qualified  
2 majority shall consist of all of the remaining legislative  
3 appointees and at least two gubernatorial appointees.] Quorum  
4 and majority vote.--Four members of the board shall  
5 constitute a quorum for the conduct of business. Any action  
6 of the board shall require an affirmative vote of at least  
7 three members of the board.

8 \* \* \*

9 (h) Qualifications and restrictions.--

10 (1) Each member at the time of appointment shall be at  
11 least 25 years of age and shall have been a resident of this  
12 Commonwealth for a period of at least one year immediately  
13 preceding appointment. Each member shall continue to remain a  
14 resident of this Commonwealth during the term of membership  
15 on the board.

16 (2) Except for ex officio members, no person shall be  
17 appointed a member of the board or be employed by or be an  
18 independent contractor of the board if that person is a  
19 public official or party officer as defined in section 1512  
20 (relating to financial and employment interests) in this  
21 Commonwealth or any of its political subdivisions.

22 (3) Each member, employee and independent contractor of  
23 the board shall sign an agreement not to disclose  
24 confidential information.

25 (4) No member, employee or independent contractor of the  
26 board or other agency having regulatory authority over the  
27 board or over forms of gaming regulated by this part shall be  
28 employed, hold any office or position or be engaged in any  
29 activity which is incompatible with the position, employment  
30 or contract.

1           (5) No member shall be paid or receive any fee or other  
2       compensation other than salary and expenses provided by law  
3       for any activity related to the duties or authority of the  
4       board. [Nothing in this part shall prohibit a member from  
5       engaging in any employment or receiving any compensation for  
6       such employment that is not connected to or incompatible with  
7       his service as a member of the board.]

8           (5.1) Each member shall devote the member's entire time  
9       and attention to the member's duties and shall not hold any  
10      other office or position or be engaged in any other  
11      employment or receive any other compensation for such  
12      employment.

13          (6) No member, employee or independent contractor of the  
14      board shall participate in a hearing, proceeding or other  
15      matter in which the member, employee or independent  
16      contractor, or the immediate family thereof, has a financial  
17      interest in the subject matter of the hearing or proceeding  
18      or other interest that could be substantially affected by the  
19      outcome of the hearing or proceeding without first fully  
20      disclosing the nature of the interest to the board and other  
21      persons participating in the hearing or proceeding. The board  
22      shall determine if the interest is a disqualifying interest  
23      that requires the disqualification or nonparticipation of an  
24      employee or independent contractor. For purposes of this  
25      paragraph, the term "immediate family" shall mean spouse,  
26      parent, brother, sister or child.

27          (7) At the time of appointment and annually thereafter,  
28      each member shall disclose the existence of any financial  
29      interest in any applicant, licensed entity or licensed  
30      facility and in an affiliate, intermediary, subsidiary or

1 holding company thereof held by the member or known to be  
2 held by the member's immediate family. The disclosure  
3 statement shall be filed with the executive director of the  
4 board and with the appointing authority for such member and  
5 shall be open to inspection by the public at the office of  
6 the board during the normal business hours of the board for  
7 the duration of the member's term and for two years after the  
8 member leaves office. For purposes of this paragraph, the  
9 term "immediate family" shall mean spouse, parent, brother,  
10 sister or child.

11 (7.1) Prior to being sworn as a member, an appointee and  
12 his immediate family shall divest any financial interest in  
13 any applicant, licensed facility or licensed entity and in an  
14 affiliate, intermediary, subsidiary or holding company  
15 thereof owned or held by the appointee or known to be held by  
16 the appointee's immediate family. For the duration of the  
17 member's term and for one year thereafter, the member and the  
18 member's immediate family may not acquire a financial  
19 interest in any applicant, licensed facility or licensed  
20 entity or in an affiliate, intermediary, subsidiary or  
21 holding company thereof. For purposes of this paragraph, the  
22 term "immediate family" shall mean spouse and any minor or  
23 unemancipated child.

24 (7.2) Prior to entering into employment or a contract  
25 with the board and annually thereafter, an employee or  
26 independent contractor shall disclose the existence of any  
27 financial interest in any applicant, licensed facility or  
28 licensed entity and in an affiliate, intermediary, subsidiary  
29 or holding company thereof owned or held by the employee or  
30 independent contractor or known to be held by the immediate

1 family of the employee or independent contractor. The  
2 disclosure statement shall be filed with the board and shall  
3 be open to inspection by the public at the office of the  
4 board during the normal business hours of the board and for  
5 two years after termination of employment or a contract with  
6 the board. For purposes of this paragraph, the term  
7 "immediate family" shall mean spouse, parent, brother, sister  
8 or child.

9 (7.3) Prior to entering into employment or contracting  
10 with the board, an employee or independent contractor and the  
11 employee's or independent contractor's immediate family shall  
12 divest any financial interest in any applicant, licensed  
13 facility or licensed entity, and in an affiliate,  
14 intermediary, subsidiary or holding company thereof, owned or  
15 held by the employee or independent contractor or known to be  
16 held by the immediate family of the employee or independent  
17 contractor. For the duration of the employee's employment  
18 with the board or the independent contractor's contract with  
19 the board and for one year thereafter, the employee or  
20 independent contractor and the immediate family thereof shall  
21 not acquire, by purchase, gift, exchange or otherwise, any  
22 financial interest in any applicant, licensed facility or  
23 licensed entity and in any affiliate, intermediary,  
24 subsidiary or holding company thereof. For purposes of this  
25 paragraph, the term "immediate family" shall mean spouse and  
26 any minor or unemancipated child.

27 (8) No member, employee or independent contractor of the  
28 board may directly or indirectly solicit, request, suggest or  
29 recommend to any applicant, licensed entity, or an affiliate,  
30 intermediary, subsidiary or holding company thereof or to any

1 principal, employee, independent contractor or agent thereof,  
2 the appointment or employment of any person in any capacity  
3 by the applicant, licensed entity, or an affiliate,  
4 intermediary, subsidiary or holding company thereof for a  
5 period of two years from the termination of term of office,  
6 employment or contract with the board.

7 (9) No member may accept employment with any applicant,  
8 licensed entity, or an affiliate, intermediary, subsidiary or  
9 holding company thereof, for a period of two years from the  
10 termination of term of office.

11 (10) No member may appear before the board on behalf of  
12 any applicant, licensed entity, or an affiliate,  
13 intermediary, subsidiary or holding company thereof, or any  
14 other licensee or permittee for a period of two years from  
15 the termination of term of office.

16 (11) No member, employee or independent contractor of  
17 the board shall accept a complimentary service, wager or be  
18 paid any prize from any wager at any licensed facility within  
19 this Commonwealth or at any other facility outside this  
20 Commonwealth which is owned or operated by a licensed gaming  
21 entity or any of its affiliates, intermediaries, subsidiaries  
22 or holding companies thereof for the duration of their term  
23 of office, employment or contract with the board and for a  
24 period of one year from the termination of term of office,  
25 employment or contract with the board. The provisions of this  
26 paragraph shall not apply to employees who utilize slot  
27 machines for testing purposes or to verify the performance of  
28 a machine as part of an enforcement investigation.

29 (12) A member who has been convicted during his term in  
30 any domestic or foreign jurisdiction of a felony, infamous



1 crime or gambling offense shall, upon conviction, be  
2 automatically removed from the board and shall be ineligible  
3 to become a member in the future. If an ex officio member is  
4 convicted during his term in any domestic or foreign  
5 jurisdiction of a felony, infamous crime or gambling offense,  
6 the ex officio member shall, upon conviction, be  
7 automatically removed from the board, and a designee shall be  
8 designated pursuant to subsection (e) to serve the remainder  
9 of the ex officio member's term.

10 (13) No employee of the board or individual employed by  
11 an independent contractor of the board whose duties  
12 substantially involve licensing, enforcement or the  
13 development or adoption of regulations or policy under this  
14 part shall:

15 (i) accept employment with an applicant or licensed  
16 entity, or an affiliate, intermediary, subsidiary or  
17 holding company thereof, for a period of one year after  
18 the termination of the employment relating to the conduct  
19 of gaming or contract with the board; or

20 (ii) appear before the board in any hearing or  
21 proceeding or participate in any other activity on behalf  
22 of any applicant, licensee, permittee or licensed entity,  
23 or an affiliate, intermediary, subsidiary or holding  
24 company thereof, for a period of two years after  
25 termination of the employment or contract with the board.

26 (14) Upon the written request of an employee of the  
27 board, the executive branch of the Commonwealth or a  
28 political subdivision or of the agency or political  
29 subdivision employing an employee, the State Ethics  
30 Commission shall determine whether the individual's duties

1 substantially involve the development or adoption of  
2 regulations or policy, licensing or enforcement under this  
3 part and shall provide a written determination to the  
4 employee to include any prohibition under this paragraph. An  
5 individual who relies in good faith on a determination under  
6 this paragraph shall not be subject to any penalty for an  
7 action taken, provided that all material facts set forth in  
8 the request for a determination are correct.

9 (15) If a member, employee or independent contractor of  
10 the board violates any provision of this section, the  
11 appointing authority or the board may, upon notice and  
12 hearing, remove the person from the board, withdraw the  
13 appointment or terminate the employment or contract, and the  
14 person shall be ineligible for future appointment, employment  
15 or contract with the board and for approval of a license or  
16 permit under this part for a period of two years thereafter.

17 \* \* \*

18 Section 2. This act shall take effect as follows:

19 (1) The amendment of 4 Pa.C.S. § 1201(h) shall take  
20 effect immediately.

21 (2) This section shall take effect immediately.

22 (3) The remainder of this act shall take effect January  
23 1, 2009.