

## Veto No. 2004-9

SB 1209

November 30, 2004

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

I am returning herewith, without my approval, Senate Bill 1209, Printer's No.1997, entitled "An act amending Titles 4 (Amusements) and 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for definitions and for the Pennsylvania Gaming Control Board established; providing for applicability of other statutes and for review of deeds, leases and contracts; further providing for general and specific powers, for temporary regulations, for board minutes and records, for slot machine licensee financial fitness and for supplier and manufacturer licenses application; providing for manufacturer licenses; further providing for occupation permit application, for establishment of State Gaming Fund and net slot machine revenue distribution, for transfers from State Gaming Fund, for multiple slot machine license prohibition, for local land use preemption, for public official financial interest, for enforcement, for penalties, for background checks, for fingerprints and for corrupt organizations; and making related repeals."

The Pennsylvania Race Horse Development and Gaming Act contains the framework for the creation of a new limited gaming industry in Pennsylvania that will necessarily require strict scrutiny, workable yet tight regulation and strong enforcement in order to maintain the integrity of that industry. While I believe this framework is adequate, I support the original objectives of this legislation to clarify the role of law enforcement agencies to safeguard the integrity of gaming activities in the Commonwealth; to guarantee public openness of Gaming Board deliberations; and to strengthen the public official financial interest prohibitions that were intended to ensure public confidence and prevent improper influence. Senate Bill 1209 has significantly strayed from these goals. It has been inconsistently amended, resulting in a final form that undermines the ability of the newly established Gaming Board to work effectively to implement the provisions of Act 71 and it removes important economic benefits originally contained in the act.

While Senate Bill 1209 strengthens the prohibition against public officials and members of the Gaming Board having ownership interests in companies regulated by the act by including suppliers and manufacturers in the ban and by eliminating the 1% ownership threshold, it actually weakens the application of the prohibition by narrowing the definition of "immediate family" to permit the parents and siblings of public officials, such as the Attorney General and legislators, to have a direct and unlimited financial interest in regulated gaming companies. In dramatic contrast, the bill applies a more expansive definition of "immediate family" to Gaming Board members and its employees. The public corruption protections should be uniform. Senate Bill 1209 falls short of achieving its goal of clarifying and strengthening this provision. We cannot afford to let there be any confusion about our commitment to prevent

impropriety.

A core objective of Act 71 was to provide employment and business opportunities that would allow Pennsylvanians to directly participate in this newly created industry. One tangible example was the General Assembly's creation of a Pennsylvania slot machine supplier system intended to foster the creation of skilled jobs and provide substantial business development opportunities. Unfortunately, Senate Bill 1209 eliminates this provision – ignoring the positive economic experience local slot machine suppliers have had in other states. Our state should not be deprived of this important benefit.

As you are well aware, one of the principal reasons for my support of the introduction of limited gaming into the Commonwealth was the anticipated revenue it would generate for property and wage tax relief. However, Senate Bill 1209 contains several provisions that could dramatically slow the ability of the Gaming Board to implement Act 71 and potentially reduce the amount of funds ultimately available for these important initiatives. For example, this bill requires that before any money is used for property and wage tax relief, any shortfall from the previous year in the Lottery Fund be made up with gaming revenue, regardless of the cause of the revenue shortfall. This is not good public policy. Moreover, the bill changes the timing of transfers of gaming revenues from the State Gaming Fund to the Property Tax Relief Fund from monthly to yearly. These provisions will not only reduce the funds available but also reduce the flexibility to time the release of funds to school districts for property and wage tax relief.

Finally, Senate Bill 1209 threatens the ability of the Gaming Board to timely place and regulate slot venues without interference from conflicting local zoning and land use regulations and policies. While I agree that slot venues should not be located in a manner in which their presence would be incompatible with the local community and legitimate impact concerns should be adequately resolved by the Board, it is not appropriate for local rules and regulations to be used to undermine the authority of the Board. I support legislation that would compel the Gaming Board to consider the concerns of local authorities by requiring public hearings in any municipality in which a slot venue is proposed, and provide both notice and ability to comment on any slot venue application by neighboring residents, community groups and local governing authorities. Among other reasons, I do not support Senate Bill 1209 because it does not reach an equitable balance between the strong interest of the Commonwealth to exclusively regulate and control gaming operations and the legitimate impact concerns of local communities.

I do believe, however, that certain limited changes would make Act 71 a better law. First, I would support precluding public officials and their immediate families from owning any interest in any entity regulated by Act 71. On July 5, 2004, the same day I signed Act 71 into law, I also signed an Executive Order that prohibited any executive branch employee from owning any interest in an entity regulated by Act 71. This restriction should appropriately be codified in statute. Second, I support extending the protections of the state RICO statute to violations of Act 71.

SESSION OF 2004

Veto 2004-9 2065

For the reasons set forth above, I must withhold my signature from Senate Bill 1209, Printer's No.1997.

EDWARD G. RENDELL