

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 622 Session of 2009

INTRODUCED BY PALLONE, BELFANTI, BEYER, BRENNAN, CALTAGIRONE, CARROLL, CAUSER, CONKLIN, GIBBONS, GOODMAN, GROVE, HALUSKA, HENNESSEY, HORNAMAN, KORTZ, KOTIK, KULA, MAHONEY, MELIO, MICOZZIE, MILLARD, MOUL, MYERS, PETRARCA, READSHAW, ROAE, SEIP, SIPTROTH, SOLOBAY, STABACK, J. TAYLOR, WALKO, WHITE, YOUNGBLOOD AND HARKINS, FEBRUARY 26, 2009

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, FEBRUARY 26, 2009

AN ACT

1 Amending the act of December 19, 1988 (P.L.1262, No.156),
2 entitled, as amended, "An act providing for the licensing of
3 eligible organizations to conduct games of chance, for the
4 licensing of persons to distribute games of chance, for the
5 registration of manufacturers of games of chance, and for
6 suspensions and revocations of licenses and permits;
7 requiring records; providing for local referendum by
8 electorate; and prescribing penalties," further providing for
9 legislative intent, for the definition of "license";
10 providing for poker tournaments; further providing for
11 licensing of eligible organizations to conduct games of
12 chance, for revocation of licenses, for local option, for
13 advertising, for certain persons prohibited from having an
14 interest in poker tournaments and for penalties; and making
15 editorial changes.

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

18 Section 1. The title of the act of December 19, 1988 (P.L.
19 1262, No.156), known as the Local Option Small Games of Chance
20 Act, amended December 19, 1990 (P.L.812, No.195), is amended to
21 read:

AN ACT

1 Providing for the licensing of eligible organizations to conduct
2 games of chance and poker tournaments, for the licensing of
3 persons to distribute games of chance, for the registration
4 of manufacturers of games of chance, and for suspensions and
5 revocations of licenses and permits; requiring records;
6 providing for local referendum by electorate; and prescribing
7 penalties.

8 Section 2. Sections 1 and 2 of the act are amended to read:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Local Option
11 Small Games of Chance and Poker Tournament Act.

12 Section 2. Legislative intent.

13 The General Assembly hereby declares that the playing of
14 small games of chance and poker tournaments for the purpose of
15 raising funds, by certain nonprofit associations, for the
16 promotion of charitable or civic purposes, is in the public
17 interest.

18 It is hereby declared to be the policy of the General
19 Assembly that all phases of licensing, operation and regulation
20 of small games of chance and poker tournaments be strictly
21 controlled, and that all laws and regulations with respect
22 thereto as well as all gambling laws should be strictly
23 construed and rigidly enforced.

24 The General Assembly recognizes the possibility of
25 association between commercial gambling and organized crime, and
26 wishes to discourage commercialization of small games of chance
27 and poker tournaments, prevent participation by organized crime
28 and prevent the diversion of funds from the purposes herein
29 authorized.

30 Section 3. The definition of "license" in section 3 of the

1 act, amended December 19, 1990 (P.L.812, No.195), is amended to
2 read:

3 Section 3. Definitions.

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

7 * * *

8 "License." A license to conduct games of chance and poker
9 tournaments.

10 * * *

11 Section 4. The act is amended by adding a section to read:
12 Section 4.1. Poker tournaments permitted.

13 (a) Conduct of tournaments.--Every eligible organization to
14 which a license has been issued under this act may conduct poker
15 tournaments for the purpose of raising funds for public interest
16 purposes. The eligible organization shall advertise the time and
17 place of the poker tournament at least one week in advance, and
18 all poker tournaments shall conclude on the same day as they
19 started. All proceeds of poker tournaments shall be used
20 exclusively for public interest purposes as permitted by this
21 act.

22 (b) Entry fee.--An eligible organization may charge a person
23 wishing to participate in a poker tournament an entry fee of no
24 more than \$100.

25 (c) Betting.--A person participating in a poker tournament
26 may bet no more than \$5 per bet.

27 (d) Raising.--The total raises per hand may not exceed five.

28 (e) Prizes.--Notwithstanding section 5, eligible
29 organizations shall pay out prizes to no more than the top five
30 winning persons in a declining share based on the person's final

placement in the tournament. The prize pool shall be based on
the total of the entry fees collected.

(f) Costs and profit.--The eligible organization may keep up
to 25% of the entry fees collected.

(g) Definitions.--As used in this section, the following
words and phrases shall have the meanings given to them in this
subsection:

"Ante." A player's initial wager or predetermined
contribution to the pot prior to dealing of the first hand.

"Bet." To make a wager by putting chips into the pot.

"Hand." One game in a series, one deal in a card game or the
cards held by a player.

"Poker." Any game, regardless of the number of cards or how
it is dealt, which uses the standard poker "winning hand"
hierarchy, for example, five of a kind beats straight, flush
beats four of a kind, etc.

"Poker tournament." An event in which poker players compete
for all or part of a prize pool.

"Pot." The total amount anted and wagered by all players
during a hand.

"Prize pool." The prize pool shall consist of the entry fees
collected minus any amount kept by the eligible organization
under subsection (f).

"Raise." A wager made in an amount greater than the
immediately preceding wager.

Section 5. Section 10 of the act, amended December 19, 1990
(P.L.812, No.195) and October 18, 2000 (P.L.602, No.79), is
amended to read:

Section 10. Licensing of eligible organizations to conduct
games of chance and poker tournaments.

1 (a) License required.--No eligible organization shall
2 conduct or operate any games of chance and poker tournaments
3 unless such eligible organization has obtained and maintains a
4 valid license issued pursuant to this section. Auxiliary groups
5 within eligible organizations shall be eligible to conduct small
6 games of chance and poker tournaments using the license issued
7 to the eligible organization provided that the auxiliary group
8 or groups are listed on the application and license of the
9 eligible organization. No additional licensing fee shall be
10 charged for an auxiliary group's eligibility under this act.
11 Auxiliary groups shall not include branches, lodges or chapters
12 of a Statewide organization.

13 (b) Issuance and fees.--The licensing authority shall
14 license, upon application, within 30 days any eligible
15 organization meeting the requirements for licensure contained in
16 this act to conduct and operate games of chance and poker
17 tournaments at such locations within the county or in such
18 manner as stated on the application as limited by subsection (b.
19 1). The license fee to be charged to each eligible organization
20 shall be \$100, except for limited occasion licenses which shall
21 be \$10. Licenses shall be renewable annually upon the
22 anniversary of the date of issue.

23 (b.1) Location of small games of chance.--Where there exists
24 a location or premises which is the normal business or operating
25 site of the eligible organization and is owned or leased by that
26 eligible organization to conduct its normal business, that site
27 shall be the licensed premises for small games of chance and
28 poker tournaments conducted by the eligible organization. If
29 that location consists of more than one building and the
30 eligible organization wishes to conduct its games and poker

1 tournaments in a different building at that location from the
2 one that is listed on its application and license, the eligible
3 organization must notify, in writing, the district attorney and
4 the licensing authority of the change in building site and the
5 dates and times that will be affected. When an eligible
6 organization does not own or lease a specific location to
7 conduct its normal business, that eligible organization may use
8 another eligible organization's premises to conduct its games
9 and poker tournaments or may make such other arrangements that
10 are consistent with this act, including, but not limited to,
11 leasing a premise under a written agreement for a rental which
12 is not determined by either the amount of receipts realized from
13 the playing of games of chance and poker tournaments nor the
14 number of people attending except that an eligible organization
15 may lease a facility for a banquet where a per head charge is
16 applied in connection with the serving of a meal. When such
17 eligible organization changes the site of its games and poker
18 tournaments from that which is listed on its application and
19 license, the eligible organization must notify, in writing, the
20 district attorney and licensing authority of the change in their
21 games' and poker tournaments' site and dates and times that will
22 be affected.

23 (b.2) Off-premises games of chance and poker tournaments.--
24 Notwithstanding any other provisions of this section, an
25 eligible organization may conduct small games of chance and
26 poker tournaments at a location off its premises when such games
27 and poker tournaments are part of an annual carnival, fair,
28 picnic or banquet held or participated in by that eligible
29 organization on a historical basis. The eligible organization
30 must notify, in writing, the district attorney and licensing

1 authority of the location, date and times of such events where
2 it will be conducting small games of chance and poker
3 tournaments.

4 (b.3) Limited occasion licenses.--Eligible organizations
5 which do not own their own premises or which do not lease a
6 specific location to conduct their normal business may apply for
7 a limited occasion license to conduct small games of chance and
8 poker tournaments on not more than three occasions covering a
9 total of seven days during a licensed year. A limited occasion
10 license entitles eligible organizations holding such a license
11 to conduct no more than two raffles during a licensed year where
12 prizes may not exceed the established limits for regular monthly
13 raffles. Holders of limited occasion licenses may not apply or
14 be granted any other license or special permit under this act.
15 No holder of a regular license or special permit under this act
16 shall apply or be granted a limited occasion license.

17 (b.4) Gambling facility prohibited.--It shall be unlawful
18 for a person, corporation, association, partnership or other
19 business entity to offer for rent or offer for use a building or
20 facility to be used exclusively for the conducting of small
21 games of chance and poker tournaments. It shall also be unlawful
22 for any eligible organization to lease under any terms a
23 facility or building which is used exclusively for the
24 conducting of small games of chance and poker tournaments.

25 (c) Display.--Licenses issued pursuant to this section shall
26 be publicly displayed at the site of the small games of chance
27 and poker tournaments.

28 (d) Operation.--Each licensed eligible organization shall
29 comply with the following restrictions and rules governing the
30 operation of games of chance and poker tournaments:

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

3 (2) No eligible organization shall permit any person who
4 has been convicted of a felony in a Federal or State court
5 within the past five years or has been convicted in a Federal
6 or State court within the past ten years of a violation of
7 the act of July 10, 1981 (P.L.214, No.67), known as the Bingo
8 Law, or of this act to manage, set up, supervise or
9 participate in the operation of games of chance and poker
10 tournaments.

11 (3) No eligible organization shall pay any compensation
12 to any person for conducting any games of chance and poker
13 tournaments. Games of chance and poker tournaments may only
14 be conducted by managers, officers, directors, bar personnel
15 and bona fide members of the eligible organization.

16 (4) Games and poker tournaments shall be conducted only
17 on the licensed premises or as otherwise provided by this
18 act.

19 (5) The eligible organization shall not lease such
20 premises under either an oral or a written agreement for a
21 rental which is determined by either the amount of receipts
22 realized from the playing of games of chance and poker
23 tournaments or the number of people attending, except that an
24 eligible organization may lease a facility for a banquet
25 where a per head charge is applied in connection with the
26 serving of a meal. An eligible organization shall not lease
27 such premises from any person who has been convicted of a
28 violation of this act within the past ten years.

29 (6) Games, other than raffles, daily drawings and weekly
30 drawings, shall be purchased only from manufacturers and

distributors approved by the department.

(7) No licensed eligible organization shall permit its premises to be used for small games of chance and poker tournaments by another licensed eligible organization at the same time that it is conducting small games of chance and poker tournaments on the premises. When a licensed eligible organization is permitting another licensed eligible organization to use its premises for purposes of small games of chance and poker tournaments, it must cease the operation of its own small games of chance and poker tournaments during the period that the other licensed eligible organization is conducting its games and poker tournaments on the premises.

(8) Raffle tickets may be sold off the licensed premise in any municipality in this Commonwealth which has adopted the provisions of this act by an affirmative vote in a municipal referendum. A licensed eligible organization which plans to sell raffle tickets in a municipality located in a county other than the county in which the eligible organization is licensed must notify that county's district attorney and licensing authority as to the location and the dates that the eligible organization plans to sell raffle tickets.

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

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

1 (2) The facility in which the games of chance and poker
2 tournaments are to be played has adequate means of ingress
3 and egress and adequate sanitary facilities available in the
4 area.

5 (3) The eligible organization is not leasing such
6 premises from the owner thereof under an oral agreement, nor
7 is it leasing such premises from the owner thereof under a
8 written agreement at a rental which is determined by the
9 amount of receipts realized from the playing of games of
10 chance and poker tournaments or by the number of people
11 attending, except that an eligible organization may lease a
12 facility for a banquet where a per head charge is applied in
13 connection with the serving of a meal.

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

17 (g) List of municipalities.--The licensing authority shall
18 include with any license or renewal issued to an eligible
19 organization, an up-to-date listing of those municipalities
20 within the licensing county which have approved the referendum
21 question on small games of chance and poker tournaments.

22 Section 6. Section 12 of the act, amended December 19, 1990
23 (P.L.812, No.195), is amended to read:

24 Section 12. Revocation of licenses.

25 (a) Grounds.--The licensing authority shall revoke or refuse
26 to renew the license of any eligible organization whenever the
27 district attorney finds upon complaint and investigation that:

28 (1) Any of the funds derived from the operation of games
29 of chance and poker tournaments are used for any purpose
30 other than for public interest purposes or for the purchase

1 of games of chance as permitted by this act.

2 (2) Any person under 18 years of age is operating or
3 playing games of chance and poker tournaments as defined in
4 this act.

5 (3) The eligible organization has permitted any person
6 who has been convicted of a felony in a Federal or State
7 court within the past five years or has been convicted in a
8 Federal or State court within the past ten years of a
9 violation of the act of July 10, 1981 (P.L.214, No.67), known
10 as the Bingo Law, or of this act, to manage, set up,
11 supervise or participate in the operation of games of chance
12 and poker tournaments.

13 (4) The facility in which the games of chance and poker
14 tournaments are played does not have adequate means of
15 ingress and egress and does not have adequate sanitary
16 facilities available in the area.

17 (5) Any person or persons other than a manager, officer,
18 director, bar personnel or a bona fide member of an eligible
19 organization have been involved in managing, setting up,
20 operating or running games of chance and poker tournaments.

21 (6) Any person has received compensation for conducting
22 games of chance and poker tournaments.

23 (7) Any prize has been awarded in excess of the limits
24 permitted under this act.

25 (8) The eligible organization has violated any condition
26 of a special permit issued pursuant to section 11.

27 (9) The eligible organization conducts the games of
28 chance and poker tournaments under a lease which calls for:

29 (i) leasing such premises from the owner thereof
30 under an oral agreement; or

1 (ii) leasing such premises from the owner thereof
2 under a written agreement at a rental which is determined
3 by the amount of receipts realized from the playing of
4 games of chance and poker tournaments.

5 (10) False or erroneous information was provided in the
6 original application.

7 (11) An eligible organization has been convicted of a
8 violation of this act as evidenced by a certified record of
9 the conviction.

10 (12) The eligible organization has permitted another
11 eligible organization to conduct small games of chance and
12 poker tournaments on its licensed premises without suspending
13 its own operation of small games of chance and poker
14 tournaments during the period that the other licensed
15 eligible organization is conducting its games and poker
16 tournaments on the premises.

17 (b) Production of records.--The district attorney may
18 require licensees to produce their books, accounts and records
19 relating to the conduct of games of chance and poker tournaments
20 in order to determine whether a license should be revoked or
21 renewal thereof denied. Licensees shall also be required to
22 produce their license, books, accounts and records relating to
23 the conduct of games of chance and poker tournaments to other
24 law enforcement officials upon proper request.

25 Section 7. Section 14(a) of the act is amended to read:
26 Section 14. Local option.

27 (a) Election to be held.--In any municipality, an election
28 may be held on the date of the primary election immediately
29 preceding any municipal election, but not more than once in four
30 years, to determine the will of the electors with respect to the

1 issuance of licenses within the limits of such municipality
2 under the provisions of this act. Where an election shall have
3 been held at the primary election preceding a municipal election
4 in any year, another election may be held under the provisions
5 of this act at the primary election occurring the fourth year
6 after such prior election. Whenever electors equal to at least
7 25% of the highest vote cast for any office in the municipality
8 at the last preceding general election shall file a petition
9 with the county board of elections of the county, or the
10 governing body of the municipality adopts, by a majority vote, a
11 resolution to place such a question on the ballot and a copy of
12 the resolution is filed with the board of elections of the
13 county, for a referendum on the question of issuing licenses,
14 the county board of elections shall cause a question to be
15 placed on the ballot or on the voting machine board and
16 submitted at the primary election immediately preceding the
17 municipal election. The question shall be in the following form:

18 Do you favor the issuance of licenses
19 to conduct small games of chance and poker
20 tournaments in the of ?

21 * * *

22 Section 8. Section 15 of the act, amended December 19, 1990
23 (P.L.812, No.195), is amended to read:

24 Section 15. Advertising.

25 It shall be unlawful for any eligible organization or person
26 to advertise the prizes or their dollar value to be awarded in
27 games of chance and poker tournaments, provided that prizes may
28 be identified on raffle tickets. Notwithstanding the prohibition
29 of advertising contained within this section, an eligible
30 organization may advertise prizes and values thereof in periodic

1 publications which are limited in their circulation to members
2 of the eligible organization.

3 Section 9. Section 16 of the act is amended to read:

4 Section 16. Certain persons prohibited.

5 No distributor nor any person who has been convicted of a
6 felony or of a violation of the act of July 10, 1981 (P.L.214,
7 No.67), known as the Bingo Law, or of this act or of any
8 comparable State or Federal law shall have a pecuniary interest
9 in the operation or proceeds of games of chance and poker
10 tournaments.

11 Section 10. Section 17 of the act, amended December 19, 1990
12 (P.L.812, No.195), is amended to read:

13 Section 17. Penalties.

14 (a) Eligible organizations.--Any eligible organization
15 violating the provisions of this act shall be guilty of a
16 summary offense and, upon conviction thereof, shall be sentenced
17 to pay a fine not exceeding \$1,000 and shall for a first
18 offense, forfeit the license to conduct games of chance and
19 poker tournaments issued to the eligible organization for the
20 remainder of the licensing period or six months, whichever is
21 longer, for a second offense, forfeit the license issued to the
22 eligible organization for the remainder of the current licensing
23 period and be ineligible to be licensed for the following
24 licensing period, for a third or subsequent offense, forfeit the
25 license issued to the eligible organization and be ineligible
26 for a license renewal for 30 months thereafter.

27 (b) Individuals.--Any person who conducts or assists in the
28 conducting of games of chance and poker tournaments in violation
29 of the provisions of this act is guilty of a summary offense for
30 a first violation. A second violation of this act shall be

1 punishable as a misdemeanor of the third degree. A third or
2 subsequent violation shall be punishable as a misdemeanor of the
3 first degree.

4 (c) Distributors and manufacturers.--Any person who
5 distributes games of chance without a license or in violation of
6 any provision of this act or applicable regulations, and any
7 manufacturer of games of chance who delivers games of chance for
8 sale or distribution in this Commonwealth who fails to obtain a
9 permit therefor is guilty of a misdemeanor of the first degree,
10 provided that no license or permit shall be required for the
11 manufacture or distribution of raffle tickets.

12 (d) Rigging.--A person commits a misdemeanor of the first
13 degree if, with intent to prevent a game of chance and poker
14 tournaments from being conducted in accordance with the
15 requirements of this act or the rules and usages governing the
16 game and poker tournaments, he:

17 (1) confers or offers or agrees to confer any benefit
18 upon or threatens any injury to a participant or other person
19 associated with the game and poker tournaments;

20 (2) tampers with any person or games and poker
21 tournaments; or

22 (3) solicits, accepts or agrees to accept any benefit.

23 (e) Contingent fees.--Any person who distributes,
24 manufactures or operates a small game of chance and poker
25 tournaments and who requires, for equipment furnished or to play
26 a game and poker tournaments, payment equal to a percentage of
27 the total winnings of any game and poker tournaments commits a
28 misdemeanor of the first degree.

29 Section 11. This act shall take effect in 60 days.