

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1134

Session of
1985

INTRODUCED BY CALTAGIRONE, HALUSKA, PETRONE, PERZEL, POTT,
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TRUMAN, KUKOVICH, RICHARDSON, STEWART, CIVERA, MAIALE AND
KOSINSKI, MAY 1, 1985

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, MAY 1, 1985

AN ACT

1 Providing for gaming machines and small games of chance;
2 establishing the Gaming Commission and providing for its
3 powers and duties; providing for enforcement, the licensing
4 of manufacturers, distributors, vendors and operators, the
5 operation of gaming machines and small games of chance;
6 providing for the disposition of revenues, for local option,
7 for the preemption of certain local taxes; and providing
8 penalties.

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12 The General Assembly of the Commonwealth of Pennsylvania

13 hereby enacts as follows:

14 Section 1. Short title.

15 This act shall be known and may be cited as the Licensee

16 Gaming Law.

17 Section 2. Definitions.

18 The following words and phrases when used in this act shall

19 have the meanings given to them in this section unless the

20 context clearly indicates otherwise:

21 "Commission." The Gaming Commission.

22 "Distributor." An individual, partnership or corporation,

23 approved and licensed by the commission, that buys, sells, or

24 leases gaming machines.

25 "Gaming machines." Coin-operated electronic devices upon

26 which a microprocessor controlled video game utilizes the

27 reason, skill or element of chance of the person operating the

28 device, who may receive cash, merchandise or something of value

29 as a reward.

30 "Manufacturer." An individual, partnership or corporation,

1 approved and licensed by the commission, that manufactures,
2 assembles or repairs video gaming machines.

3 "Municipality." A city, borough, incorporated town or
4 township.

5 "Operator." An individual, partnership or corporation who or
6 which has been issued a restaurant, club, caterer club, hotel or
7 eating place license pursuant to the act of April 12, 1951
8 (P.L.90, No.21), known as the Liquor Code.

9 "Small games of chance." Any device approved by the
10 commission, and used for gaming purposes whereby money is placed
11 at risk for the possible return of merchandise, money or
12 anything of value. Such devices shall include, but not be
13 limited to, punch boards, pull-tab devices, half-and-half
14 tickets or gaming pools.

15 "Vendor." An individual, partnership or corporation,
16 approved and licensed by the commission, that sells, leases,
17 repairs and maintains video gaming machines.

18 Section 3. Gaming Commission.

19 (a) Establishment and composition.--There is hereby
20 established an independent commission to be known as the Gaming
21 Commission. The commission shall consist of five members
22 appointed as follows:

23 (1) One member appointed by the Governor.

24 (2) Two members appointed by the President pro tempore
25 of the Senate.

26 (3) Two members appointed by the Speaker of the House of
27 Representatives.

28 (b) Terms.--The terms of members shall be six years and
29 until their successors are appointed. In case of a vacancy, the
30 same appointing authority shall appoint a member to fulfill the

1 unexpired term.

2 (c) Initial appointments.--Initial appointments to the
3 commission shall be as follows:

4 (1) The Governor shall appoint one member to a six-year
5 term.

6 (2) The President pro tempore of the Senate shall
7 appoint one member for a term of three years and one member
8 for a term of five years.

9 (3) The Speaker of the House shall appoint one member
10 for a term of two years and one member for a term of four
11 years.

12 Section 4. Qualifications of members.

13 (a) Citizenship, age and residency.--Each member of the
14 commission shall be a citizen of the United States and a
15 resident of this Commonwealth and shall have been a qualified
16 elector in this Commonwealth for a period of three years
17 preceding the member's appointment and must be no less than 30
18 years of age. No more than three members of the commission shall
19 be registered and enrolled in the same political party.

20 (b) Public office.--No member of the commission may hold any
21 elected or appointed public office under the laws of the
22 Commonwealth or the United States or seek elected public office
23 of any kind within this Commonwealth or the United States.

24 Section 5. Chairman, quorum, etc.

25 (a) Chairman.--The chairman of the commission shall be
26 elected by the members. The chairman shall preside at all
27 meetings or a member designated by the chairman shall preside in
28 the chairman's absence.

29 (b) Quorum.--Three members of the commission shall
30 constitute a quorum and any action or order of the commission

1 shall require the approval of at least three members.

2 (c) Bond.--All members of the commission shall file with the
3 State Treasurer a bond in the form and amount determined by the
4 Executive Board.

5 (d) Salaries and expenses.--The salary and expenses of the
6 commission members shall be determined by the Executive Board.

7 (e) Executive director.--The commission may appoint an
8 executive director to hold office at its pleasure. The executive
9 director shall have the powers and duties as the commission
10 shall prescribe. The executive director shall have the authority
11 to designate a deputy director to perform the duties of the
12 executive director during the director's absence. The executive
13 director shall receive compensation in the amount approved by
14 the Executive Board.

15 Section 6. Powers and duties.

16 The commission shall have the following powers and duties:

17 (1) To issue licenses in accordance with this act.

18 (2) To enforce this act and any rules and regulations
19 promulgated hereunder.

20 (3) To promulgate rules and regulations in the manner
21 provided by law.

22 (4) To appoint, fix the compensation and define the
23 powers and duties, terms and conditions of employment and
24 standards of conduct of such employees and enforcement agents
25 as it deems necessary.

26 (5) To approve the gaming machines and the small games
27 of chance to be operated under this act.

28 Section 7. Enforcement.

29 (a) Powers.--Employees of the commission designated as
30 enforcement agents shall investigate the background of every

1 license applicant to the extent necessary to comply with this
2 act. No investigation shall be undertaken prior to the
3 submission of an application for a license by an applicant.

4 (b) Authority.--Enforcement agents shall have police power
5 and authority throughout this Commonwealth with respect to the
6 enforcement of this act, including the power and authority to
7 arrest, on view or under warrant, any person violating this act.

8 (c) Investigation and report.--Enforcement agents may
9 investigate any alleged illegal activities concerning this act.
10 Findings shall be reported to the commission which shall relay
11 any suspected violations to the district attorney for
12 disposition.

13 Section 8. Licenses.

14 (a) Qualifications.--To qualify for a license under this
15 act, an applicant shall meet all of the following
16 qualifications:

17 (1) If the applicant is an individual:

18 (i) The applicant is of good character, honesty and
19 integrity and in all respects is qualified and has
20 adequate financing from suitable sources.

21 (ii) The applicant is a citizen of the United States
22 and a resident of this Commonwealth for at least two
23 years prior to the application.

24 (2) If the applicant is a partnership, all partners meet
25 the qualifications for individuals under paragraph 1.

26 (3) If the applicant is a corporation applying for a
27 license as an operator, vendor or distributor:

28 (i) It is a registered corporation of at least one
29 year.

30 (ii) At least 50% of its directors are residents of

1 this Commonwealth for at least one year.

2 (iii) All officers meet the qualifications for
3 individuals under paragraph (1).

4 (iv) All stockholders are individuals.

5 (b) Cause for disapproval.--The commission may not
6 disapprove any application or limit, condition or restrict any
7 license except for reasonable cause.

8 (c) Issuance.--The commission, upon application and payment
9 of the proper fee by the applicant, shall issue to the qualified
10 applicant a license of the type for which the application was
11 made. No more than one classification of gaming license shall be
12 issued to any one applicant.

13 (d) Meaning.--Any person aggrieved by an action of the
14 commission in disapproving or limiting a license application
15 shall have the right to a hearing before the commission.
16 Hearings before the commission and appeals therefrom shall be
17 conducted and taken in the manner provided in Title 2 of the
18 Pennsylvania Consolidated Statutes (relating to administrative
19 law and procedure).

20 Section 9. License fees.

21 (a) Manufacturers.--The manufacturers' annual license fee
22 shall be \$1,000.

23 (b) Vendors.--The vendors' annual license fee shall be
24 \$50,000. Each approved machine shall be licensed and validated
25 with a tax stamp with a fee of \$1,000 per machine. The vendor's
26 license fee shall constitute the licensing of 50 gaming
27 machines. Each additional machine sold or leased by the vendor
28 will require an additional \$1,000 license and a validated tax
29 stamp.

30 (c) Operators.--The operators' annual license fee shall be

1 \$1,000 to conduct small games of chance and operate gaming
2 machines on a licensed premise.

3 Section 10. Distribution of gaming machines and small games of
4 chance.

5 (a) Gaming machines.--The number of gaming machines to be
6 distributed to each operator's premises shall be no more than
7 ten.

8 (b) Purchase of small games of chance.--Operators shall
9 purchase games of chance from an authorized agent appointed by
10 the commission. Cost of games of chance shall include the
11 manufacturing and purchasing cost of approved games, plus a
12 profit included as revenue to the Commonwealth, as determined by
13 the commission.

14 (c) Small games of chance.--The description and number of
15 small games of chance to be approved shall be determined by the
16 commission and published as a regulation.

17 Section 11. Winning percentage and gaming machine
18 accountability.

19 (a) Payoff.--The percentage of payoff to the player of
20 gaming machines shall be no less than 80%.

21 (b) Accounting device.--All gaming machines shall have
22 electronic accounting devices to verify revenue due the
23 Commonwealth.

24 Section 12. Minors.

25 (a) Penalty.--A person who is under 21 years of age and
26 plays or attempts to play a small game of chance or gaming
27 machine commits a misdemeanor of the third degree and, upon
28 conviction, shall be sentenced to pay a fine of not less than
29 \$200 nor more than \$500.

30 (b) Licensee.--A licensee who willfully permits a person

1 under 21 years of age to play a small game or gaming machines of
2 chance commits a misdemeanor of the third degree and, upon
3 conviction, shall be sentenced to pay a fine of not less than
4 \$200 nor more than \$500.

5 (c) Defense.--It shall be a defense to a prosecution brought
6 under subsection (b) that the licensee or his employee has
7 obtained a written verification of the age of the person
8 participating in the small game of chance or gaming machine on a
9 form prescribed by the commission.

10 Section 13. Violations.

11 The commission shall investigate and may suspend or revoke a
12 license for a violation of this act. No license shall be
13 suspended or revoked until a hearing before the commission is
14 completed. A civil penalty for a violation of this act or
15 regulations adopted hereunder shall not exceed \$1,000 for the
16 first offense or \$2,000 for each subsequent violation.

17 Section 14. Revenues and disposition.

18 (a) Application of act.--The provisions of this act relating
19 to revenues and license fees shall apply equally to all
20 operators, whether profit or nonprofit.

21 (b) Net revenues.--The net revenues derived from licensing
22 and collection of fees relative to the operation of gaming
23 machines and small games of chance shall be transmitted to the
24 State Treasurer and distributed yearly in accordance with the
25 following:

26 (1) A portion of the proceeds shall be distributed to
27 school districts based upon the ratio of student population
28 of each school district has to the total Commonwealth student
29 population. For the purpose of this paragraph, students in
30 private schools shall be counted in determining local school

1 district student population and total Commonwealth student
2 population.

3 (2) A portion of the proceeds shall be distributed to
4 those municipalities allowing gaming machines and small games
5 of chance based upon the ratio the municipal population bears
6 to the total population of those municipalities allowing
7 gaming machines and small games of chance.

8 (3) A portion of the proceeds shall be distributed to
9 the municipal police, fire and ambulance services for the
10 purchase of equipment according to a formula to be
11 established by the General Assembly.

12 Section 15. Exemption from gambling laws.

13 (a) Licensees.--No licensee shall be prosecuted under the
14 criminal laws of the Commonwealth relating to gambling for any
15 activity for which the licensee is licensed.

16 (b) Machines.--Gaming machines and small games of chance
17 approved by the commission are exempt from the criminal laws of
18 the Commonwealth relating to the manufacture, transfer or
19 possession of gaming machines and small games of chance.

20 Section 16. Local option.

21 (a) Lawful operation.--The operation of gaming machines and
22 small games of chance shall be lawful in any municipality except
23 as provided in subsection (b).

24 (b) Referendum.--

25 (1) At the municipal or general election occurring
26 within two years of the effective date of this act, a
27 referendum may be held to determine the will of the electors
28 with respect to the operation of gaming machines and small
29 games of chance within a municipality.

30 (2) Whenever electors equal to at least 25% of the

1 highest vote cast for any office in the municipality at the
2 last preceding general election shall file a petition with
3 the county board of elections for a referendum on the
4 question of gaming machines and small games of chance, the
5 board shall place the question on the ballots or voting
6 machines at the next municipal or general election. The
7 referendum shall be conducted in the manner provided for
8 elections under the act of June 3, 1937 (P.L.1333, No.320),
9 known as the Pennsylvania Election Code.

10 (3) The question shall be:

11 Do you favor the operation of gaming machines and
12 small games of chance in the _____ of
13 _____?

14 (4) In case of a tie vote, the status quo shall obtain.
15 If a majority of the electors vote "yes" on the question, the
16 operation of gaming machines and small games of chance shall
17 remain lawful within the municipality. If a majority of the
18 electors vote "no", all licenses for the operation of gaming
19 machines and small games of chance shall automatically expire
20 30 days from the date of the certification of the vote by the
21 county board of elections, the commission shall issue no
22 further licenses and the operation of gaming machines and
23 small games of chance shall be unlawful within that
24 municipality.

25 Section 17. Preemption of local taxes and license fees.

26 All gaming machines for which the appropriate license fee has
27 been paid to the commission shall be exempt from any taxes
28 levied under the authority of the act of December 31, 1965
29 (P.L.1257, No.511), known as The Local Tax Enabling Act, or the
30 act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as

1 the Sterling Act.

2 Section 18. Exemption from Federal regulation.

3 The General Assembly declares that the Commonwealth is exempt
4 from section 2 of the act of January 2, 1981 (64 Stat. 1134, 15
5 U.S.C. § 1172) and that all shipments of approved gaming
6 machines into this Commonwealth in compliance with sections 3
7 and 4 of that act shall be deemed legal shipments into this
8 Commonwealth.

9 Section 19. Effective date.

10 This act shall take effect in 60 days.