

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1808 Session of  
1983

INTRODUCED BY CAWLEY, MISCEVICH, KUKOVICH, RICHARDSON, LAUGHLIN,  
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LETTERMAN, TIGUE, SEVENTY AND HALUSKA, DECEMBER 14, 1983

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE,  
DECEMBER 14, 1983

AN ACT

1 Providing for the licensing, operation and placement of coin-  
2 operated gaming machines within this Commonwealth; creating  
3 the Gaming Commission; providing for the use of small games  
4 of chance; providing powers and duties; providing for  
5 enforcement; prohibiting use by minors; providing for local  
6 option; providing for distribution of revenues to be used for  
7 specified purposes; and providing penalties.

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14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 Section 1. Short title.

17 This act shall be known and may be cited as the Gaming  
18 Machine and Equipment Law.

19 Section 2. Definitions.

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

23 "Association." A volunteer fire company, ambulance  
24 association or religious, charitable, fraternal, veterans,  
25 civic, county fair or agricultural association or auxiliary  
26 thereof organized as a nonprofit organization which shall have  
27 existed and conducted business in furtherance of their written  
28 constitution, charter, articles of incorporation or bylaw  
29 express purpose, for two years prior to application for a  
30 license.

1 "Charitable purpose." Benevolent or philanthropic purpose.

2 "Civic purpose." Community purpose or other purpose for  
3 which the association is chartered.

4 "Coin-operated gaming machine." Any mechanical, electrical,  
5 video or other coin-operated device, contrivance or machine  
6 which, upon insertion of a coin or token, or upon payment of any  
7 consideration, is available to play or operate, with the  
8 opportunity to win anything of value, including all coins or  
9 tokens, by application of the elements of skill, chance, or  
10 both, which may deliver to the player, or person operating the  
11 machine, cash, premiums, merchandise, tokens or anything of  
12 value.

13 "Commission." The Gaming Commission as created by this act.

14 "Distributor." Any person who has been granted a  
15 distributor's franchise for this Commonwealth by any coin-  
16 operated gaming machine manufacturer and has paid the annual  
17 license fee provided by law. A manufacturer of coin-operated  
18 gaming machines, or any subsidiary thereof, shall not be a  
19 distributor under this act.

20 "Gross profit." The gross revenues derived from a coin-  
21 operated gaming machine after deduction of winning payoffs.

22 "Gross revenues." All revenues derived from the license fees  
23 received by the commission in accordance with this act.

24 "Licensed liquor establishment." An establishment holding a  
25 retail hotel, restaurant or club liquor license issued by the  
26 Pennsylvania Liquor Control Board pursuant to the act of April  
27 12, 1951 (P.L.90, No.21), known as the Liquor Code.

28 "Local government." The governing body of a municipality.

29 "Manufacturer." A person primarily engaged in the  
30 manufacture, assembly or production of coin-operated gaming

1 machines.

2 "Municipality." Any county, city, borough, incorporated town  
3 or township.

4 "Net revenues." All revenues derived from the license fees  
5 received by the commission in accordance with this act after the  
6 deduction of all expenses incurred by the commission for the  
7 implementation of this act.

8 "Operator." Any person who qualifies and is granted an  
9 operator's license.

10 "Person." An individual, firm, partnership, business  
11 association, corporation or entity.

12 "Public facility." Any area designated as such by a  
13 municipality.

14 "Qualified nonprofit organization." A nonprofit service or  
15 fraternal organization entitled to exemption from Federal income  
16 tax under section 501(c)(4), (5), (7), (8), (10) or (19) of the  
17 Internal Revenue Code of 1954, as amended, and which regularly  
18 occupies, as owner or lessee, quarters for the use of its  
19 members.

20 "Qualified sleeping units." The number of rooms actually  
21 available for rental which are at least 150 square feet measured  
22 to the center of perimeter walls, including bathroom and closet  
23 space, excluding hallways, balconies and lounges.

24 "Resort." A hotel, that in addition to providing lodging and  
25 other services customarily associated with the business of  
26 hostelry, has devoted substantial space to public recreational  
27 pursuits, both indoors and outdoors, such as dining,  
28 entertainment, sports, theaters, dancehalls, swimming pools,  
29 tennis courts, golf courses, riding stables and such other  
30 activities as are normally associated with recreation and

1 vacation that are beyond the requirement of mere transient  
2 guests.

3 "Route operator." Any person engaged in the business of  
4 placing and operating coin-operated gaming machines in approved  
5 establishments under any agreement whereby consideration is paid  
6 or payable for the placement of those coin-operated gaming  
7 machines whether the consideration is measured by a percentage  
8 of revenues derived from the machines or by a fixed fee or  
9 otherwise and the person has been established in the coin  
10 machine business in this Commonwealth for at least one calendar  
11 year. A manufacturer of coin-operated gaming machines, or any  
12 subsidiary thereof, shall not be a route operator under this  
13 act.

14 "Small games of chance." Any device which is used for  
15 gambling purposes in which money is paid for the purpose of  
16 trying to gain a monetary return, including stamp machines,  
17 member sign-in lotteries, punchboards, pull-tab devices, half-  
18 and-half tickets, raffles, but not including those machines  
19 commonly known as slot machines or those games of chance  
20 commonly known as bingo, roulette, dice, blackjack or other  
21 games commonly associated with casino gambling.

22 "Subsidiary." A company in which a manufacturer has more  
23 than a 50% beneficial or legal interest.

#### 24 Section 3. Gaming Commission.

25 (a) Independent commission.--An independent commission to be  
26 known as the Gaming Commission is hereby created. The commission  
27 shall consist of five members. One member shall be appointed by  
28 the Governor, two members shall be appointed by the House of  
29 Representatives and two members shall be appointed by the  
30 Senate. Of the original members, one shall be appointed for a

1 term of two years, one for a term of three years, one for a term  
2 of four years, one for a term of five years and one for a term  
3 of six years. Thereafter, all appointments shall be for terms of  
4 six years or until successors are appointed and qualified.

5 (b) Political affiliation.--No more than three members of  
6 the commission shall be registered under the same political  
7 party.

8 (c) Compensation.--Each member of the commission shall  
9 receive compensation as fixed by law.

#### 10 Section 4. Qualifications of members.

11 Each member of the commission at the time of his appointment  
12 and qualification shall be a citizen of the United States and a  
13 resident of this Commonwealth, shall have been a qualified  
14 elector in this Commonwealth for a period of at least one year  
15 preceding his appointment and shall not be less than 30 years of  
16 age.

#### 17 Section 5. Chairman and quorum.

18 (a) Chairman.--The commission shall elect one of its members  
19 as chairman. The chairman shall, when present, preside at all  
20 meetings. A designated member shall preside in his absence.

21 (b) Quorum.--Three members of the commission shall  
22 constitute a quorum and any action or order of the commission  
23 shall require the approval of at least three members.

#### 24 Section 6. Director.

25 The commission may appoint a director to hold office at its  
26 pleasure. The director, if appointed, shall have the powers and  
27 duties not contrary to law as the commission shall prescribe and  
28 shall receive compensation as the commission shall determine.  
29 The director shall have the authority to designate a deputy  
30 director to perform the duties of the director during his

1 absence.

2 Section 7. Bonds.

3 Before entering upon the duties of their respective offices  
4 or positions, each member of the commission and the director  
5 shall execute and file with the State Treasurer a bond in such  
6 penal sum as shall be fixed by the Executive Board of this  
7 Commonwealth. The amount of any bond shall not be less than  
8 \$50,000.

9 Section 8. Powers and duties of commission.

10 The commission shall have the power and its duties shall be  
11 to:

12 (1) Provide for licensing procedures for the placement  
13 of coin-operated gaming machines.

14 (2) Prescribe the form for licensing applications and  
15 licenses.

16 (3) Grant or deny license applications. The commission  
17 may deny any application or limit, condition or restrict any  
18 license for cause deemed reasonable by the commission. The  
19 burden of proving qualification to receive any license is  
20 upon the applicant. An application shall not be granted  
21 unless the commission is satisfied that:

22 (i) The applicant is of good character, honesty and  
23 integrity and in all respects is qualified to operate,  
24 manufacture or distribute coin-operated gaming machines,  
25 as the case may be; and that the proposed financing of  
26 the applicant is adequate for the nature of the proposed  
27 operation and from a suitable source.

28 (ii) The applicant has no affiliations or  
29 associations which, because of reputation, prior  
30 activities or current actions, create or enhance the

1 danger of unsuitable or illegal conduct in the carrying  
2 on of the activities permitted under this act, or pose a  
3 threat to the public interest or the effective regulation  
4 and control of the activities permitted under this act.

5 (iii) The applicant for an operator's license has  
6 been a resident of this Commonwealth for a period of two  
7 years prior to the filing of an application for a  
8 license. If the applicant is a corporation, it shall have  
9 been engaged in business in this Commonwealth for a  
10 period of two years prior to the filing of an application  
11 for a license.

12 (4) Require the applicant to pay all costs of  
13 investigation for his application. The commission shall  
14 collect from each applicant an amount of money sufficient to  
15 pay the costs incurred in the investigation before taking any  
16 action by way of grant or denial of the application.

17 (5) Issue licenses permitting the placement of coin-  
18 operated gaming machines in certain approved establishments.

19 (6) Prescribe the rules and regulations for the games,  
20 types of games and machines permissible, along with the  
21 supervision and placement of machines.

22 (7) Select the types and makes of coin-operated gaming  
23 machines that will be installed in this Commonwealth.

24 (8) Adopt rules and regulations providing for the  
25 suspension and revocation of licenses for violations of this  
26 act or the rules and regulations promulgated under this act.

27 (9) Hold hearings on license applications or for the  
28 revocation or suspension of any license.

29 (10) Monitor the use, maintenance and service of the  
30 machines.





1 licensed by the Pennsylvania State Harness Racing Commission or  
2 the Pennsylvania State Horse Racing Commission to install,  
3 operate and make available to the general public such gaming  
4 machines as the commission shall permit within the following  
5 guidelines:

6 (1) Restaurants and clubs shall be limited to no more  
7 than 15 coin-operated gaming machines for each approved  
8 establishment.

9 (2) Each restaurant, hotel or club shall possess a valid  
10 liquor license issued by the Pennsylvania Liquor Control  
11 Board prior to its being approved as a location for the  
12 placement of coin-operated gaming machines. The liquor  
13 license shall be maintained in good standing at all times  
14 during the maintenance of the operator's license. The  
15 revocation, sale, termination or transfer of the liquor  
16 license, shall operate to immediately revoke the authority of  
17 an operator to install, place or operate any coin-operated  
18 gaming machines on the approved location. In the event of a  
19 suspension of the liquor license, the authority to operate  
20 coin-operated gaming machines on the premises shall be  
21 suspended until such time as the liquor license is  
22 reinstated.

23 (3) Hotels possessing a restaurant liquor license shall  
24 be limited to one coin-operated gaming machine for every two  
25 qualified sleeping units.

26 (4) Any municipality shall have the authority to permit  
27 the installation of any number of coin-operated gaming  
28 machines at locations designated by the municipality as a  
29 public facility including, but not limited to, airports,  
30 transportation terminals or public sports facilities.

(5) Any qualified nonprofit organization shall be permitted to install and operate coin-operated gaming machines on its premises. A nonprofit organization shall first obtain a valid operator's license for the operation or shall have machines placed on the premises by a person possessing a valid operator's license. The number and location of coin-operated gaming machines for the nonprofit organization shall be determined by the commission.

(b) Manufacturers.--The commission shall have the authority to issue a manufacturers license to any manufacturer who offers coin-operated gaming machines for use, sale or distribution within this Commonwealth.

#### Section 11. Use by minors.

(a) Minors.--No person less than 21 years of age shall use or play the coin-operated gaming machines or small games of chance in any manner or form, or through any agency. Any minor using or playing the machine or small game of chance or attempting to use or play the machine or small game of chance shall, upon conviction, be liable for a fine not in excess of \$1,000.

(b) Persons permitting use by minors.--Any person who permits a person less than 21 years of age to play or use a coin-operated gaming machine or small game of chance in any fashion, whether that person is actually aware of the minor's age or not, shall, upon conviction, be liable for a fine not in excess of \$1,000, except that the establishment of all the following facts by a person allowing the minor to operate the machine or small game of chance shall constitute a defense to any prosecution under this subsection:

(1) That the minor falsely represented in writing that

1 he was 21 years of age or over.

2 (2) That the appearance of the minor was such that a  
3 reasonable person would believe him to be 21 years of age or  
4 over.

5 (3) That the permission to operate the coin-operated  
6 gaming machine or play the small game of chance was made in  
7 good faith, relying upon written representation and in the  
8 reasonable belief that the minor was actually 21 years of age  
9 or older.

10 Section 12. Local option.

11 The placement of coin-operated gaming machines in any  
12 municipality in this Commonwealth shall be unlawful unless the  
13 electors of that municipality, other than a county, approve the  
14 placement of coin-operated gaming machines within its  
15 boundaries. Such an election may be held on the date of any  
16 primary or general election after the effective date of this  
17 act, but not oftener than once in every five years, to determine  
18 the will of the electors with respect to the placement of coin-  
19 operated gaming machines within that municipality. Whenever the  
20 local government of the municipality adopts, by a majority vote,  
21 a resolution to place such a question on the ballot or whenever  
22 electors equal to at least 25% of the highest vote cast for any  
23 office in the municipality at the last preceding general  
24 election petition for a referendum on the question, a copy of  
25 the resolution or petition shall be filed with the county board  
26 of elections, no less than 90 days prior to the next primary or  
27 general election, for a referendum on the question of placing  
28 coin-operated gaming machines within that municipality. Said  
29 petition proceedings shall be in the manner and subject to the  
30 provisions of the election laws which relate to the signing,

1 filing and adjudication on nomination petitions, insofar as such  
2 provisions are applicable. The county board of elections shall  
3 cause a question to be placed on the ballots or on the voting  
4 machine board and submitted at the next primary or general  
5 election. The question shall be in the following form:

6           Do you favor the placement of coin-operated gaming  
7           machines in (name of municipality)?

8 A majority of the voting electors shall decide the question and  
9 the results shall be transmitted to the Secretary of the  
10 Commonwealth who shall have the duty of informing the commission  
11 of the result. Proceedings under this section shall be in  
12 accordance with the provisions of the act of June 3, 1937  
13 (P.L.1333, No.320), known as the Pennsylvania Election Code.

14 Section 13. Distribution of coin-operated gaming machines.

15 All coin-operated gaming machines installed, maintained and  
16 used in this Commonwealth shall be obtained by the licensed  
17 operator by purchase or lease only through a distributor that  
18 has been granted a distributor's license by the Commonwealth.

19 Section 14. License fees.

20 (a) Distributors.--The annual license fee for a coin-  
21 operated gaming machine distributor shall be \$10,000.

22 (b) Operators.--The annual license fee for a coin machine  
23 operator shall be \$50,000. A licensed operator shall pay in  
24 addition an annual machine permit fee of \$500 for each  
25 additional coin-operated gaming machine in excess of 50 machines  
26 which he utilizes under his license. A licensed operator shall  
27 also pay a machine license fee at the rate of 6% on the gross  
28 profit of each coin-operated gaming machine. The machine license  
29 fee shall be payable on a monthly basis.

30 (c) Municipality or school district.--The maximum annual fee

1 to be charged by any municipality or school district shall not  
2 exceed \$250 for each coin-operated gaming machine.

3 Section 15. Small games of chance; special permits for  
4 coin-operated gaming machines.

5 (a) Small games of chance.--For an annual fee of \$500, the  
6 commission may issue a license to associations and to holders of  
7 restaurant liquor licenses permitting the use of small games of  
8 chance.

9 (b) Coin-operated gaming machines.--For a permit fee of  
10 \$500, the commission may issue a special permit to associations  
11 permitting the use of a maximum of 15 coin-operated gaming  
12 machines. Any such permit shall be valid for a three-day period  
13 and an association shall be limited to a maximum of three such  
14 permits per year.

15 (c) Rules.--The commission shall adopt rules and regulations  
16 to implement this section.

17 Section 16. Collection and distribution of revenues.

18 (a) Net revenues.--The net revenues derived under this act  
19 by the Commonwealth shall be held by the State Treasurer until  
20 such time as they are to be distributed.

21 (b) Proceeds.--Any proceeds derived shall be used on an  
22 annual basis in the following manner:

23 (1) The sum of \$20,000,000 shall be used for home  
24 mortgage assistance for those persons suffering economic  
25 difficulties in this Commonwealth.

26 (2) The sum of \$10,000,000 shall be used for emergency  
27 relief for urban depressed areas in this Commonwealth.

28 (3) The sum of \$20,000,000 shall be used for programs  
29 for the mentally and physically handicapped persons in this  
30 Commonwealth.

1           (4) The sum of \$10,000,000 shall be used for job  
2 training programs for unemployed veterans in this  
3 Commonwealth.

4           (5) The sum of \$10,000,000 shall be used for emergency  
5 housing programs for unemployed persons in this Commonwealth.

6           (6) The sum of \$50,000,000 shall be used for mass  
7 transit assistance for transit authorities with a ridership  
8 of over 500,000 passengers a year.

9           (7) The sum of \$25,000,000 shall be used as provided for  
10 in section 922.1-A of the act of March 10, 1949 (P.L.30,  
11 No.14), known as the Public School Code of 1949.

12           (8) The sum of \$25,000,000 shall be used for public  
13 schools with a concurrent equal reduction in local property  
14 taxes.

15           (9) The sum of \$10,000,000 shall be used for the  
16 rehabilitation of rail lines abandoned by Conrail.

17           (10) The sum of \$30,000,000 shall be used for the  
18 operation of the commission.

19       (c) Excess.--The remaining proceeds shall be placed in the  
20 General Fund of this Commonwealth.

21 Section 17. Winning percentage.

22       At no time shall any winning payoff percentage of a coin-  
23 operated gaming machine be less than 83% to the player.

24 Section 18. Preemption.

25       The provisions of this act shall preempt the act of August 5,  
26 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act,  
27 and the act of December 31, 1965 (P.L.1257, No.511), known as  
28 The Local Tax Enabling Act.

29 Section 19. Penalties.

30       A person who violates this act commits a summary offense and

1 shall, upon conviction, be sentenced to pay a fine of not more  
2 than \$10,000 and costs of prosecution or shall be sentenced to a  
3 term of imprisonment of not more than 30 days, or both.

4 Section 20. Repeals.

5 (a) Specific repeal.--The provisions of 18 Pa.C.S. § 5513  
6 (relating to gambling devices, gambling, etc.) are repealed to  
7 the extent that they are inconsistent with this act.

8 (b) General repeal.--All other acts and parts of acts are  
9 repealed insofar as they are inconsistent with this act.

10 Section 21. Exemption from Federal regulations.

11 The General Assembly declares that it is exempt from the  
12 provisions of section 2 of the Gambling Devices Transportation  
13 Act of January 2, 1951 (64 Stat. 1134, 15 U.S.C. § 1172). All  
14 shipments of coin-operated gaming machines into this  
15 Commonwealth in compliance with sections 3 and 4 of that act  
16 shall be deemed legal shipments into this Commonwealth.

17 Section 22. Effective date.

18 This act shall take effect in 60 days.