

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1317 Session of
2009

INTRODUCED BY SANTONI, McCALL, EACHUS, DeWEESE, STURLA,
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SAINATO AND D. EVANS, APRIL 21, 2009

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, APRIL 21, 2009

AN ACT

1 Providing for tuition relief and for a video lottery program;
2 establishing penalties; and making appropriations.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 CHAPTER 1

6 GENERAL PROVISIONS

7 Section 101. Short title.

8 This act shall be known and may be cited as the Tuition
9 Relief Act.

10 Section 102. Definitions.

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

14 "Account." The Enabling Students to Attend College Account.

15 "Agency." The Pennsylvania Higher Education Assistance
16 Agency.

17 "Applicant." A person who applies for a license under

1 section 502(a).

2 "Central computer system." A central site computer system
3 controlled by the Department of Revenue that at all times is
4 connected to video lottery terminals and that, at a minimum, is
5 capable of monitoring, communicating, auditing, retrieving
6 information, generating games for and activating and disabling
7 each video lottery terminal.

8 "Cheating or thieving device." A device to facilitate the
9 alignment of any winning combination or to remove from any video
10 lottery terminal money or other contents. The term includes a
11 tool, drill, wire, coin or token attached to a string or wire
12 and any electronic or magnetic device.

13 "Coin-operated amusement machine." A machine that requires
14 the insertion of a coin, currency or tokens to play or activate
15 a game, the outcome of which is primarily determined by the
16 skill of the player. The term shall not include a video lottery
17 terminal.

18 "Community college." A public college operated under Article
19 XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the
20 Public School Code of 1949.

21 "Department." The Department of Revenue of the Commonwealth.

22 "Eligible student." A student who meets all of the
23 following:

24 (1) Is enrolled at the undergraduate level in a degree
25 or certificate program at a public institution of higher
26 education.

27 (2) Does not hold a bachelor's degree or its equivalent.

28 (3) Does one of the following:

29 (i) Participates in the scholarship program.

30 (ii) Meets the family income requirements under

1 section 302(1).

2 "Enforcement Bureau." The Bureau of Liquor Control
3 Enforcement of the Pennsylvania State Police.

4 "Expected family contribution." A contribution as determined
5 under the policies and procedures established by the agency for
6 the scholarship program.

7 "Family income." Income as established by the agency for the
8 scholarship program.

9 "First-time student." An eligible student who has enrolled
10 in undergraduate level courses for the first time or is
11 readmitted to undergraduate level courses after a period of not
12 less than three years. The term shall include students enrolled
13 for the first time in the academic year who attended college in
14 the prior summer term or who entered with advanced standing due
15 to college credits earned before graduation from high school.

16 "Full-time student." An eligible student that meets the
17 definition of full-time student as defined in the act of January
18 25, 1966 (1965 P.L.1546, No.541), referred to as the Higher
19 Education Scholarship Law.

20 "Fund." The College Tuition Relief Fund.

21 "Gaming machine." A device or machine that has the outcome
22 of play primarily determined by chance. The term shall include a
23 device that is not in working order or requires some mechanical
24 act of manipulation or repair to accomplish its adaptation,
25 conversion or workability. The term shall include an antique
26 slot machine under 18 Pa.C.S. § 5513(c) (relating to gambling
27 devices, gambling, etc.) when used for profit. The term shall
28 not include any of the following:

29 (1) A coin operated amusement machine.

30 (2) A video lottery terminal that has all of its seals

1 or identification plates.

2 (3) Slot machines as defined under 4 Pa.C.S. § 1103
3 (relating to definitions).

4 (4) A game of chance under the act of December 19, 1988
5 (P.L.1262, No.156), known as the Local Option Small Games of
6 Chance Act.

7 (5) Lottery terminals used under the act of August 26,
8 1971 (P.L.351, No.91), known as the State Lottery Law.

9 "Grocery store." A retail establishment, that is less than
10 2,500 square feet or more than 8,500 square feet in size,
11 commonly known as a grocery store, supermarket or delicatessen,
12 where food, food products and supplies are sold for human
13 consumption on or off the premises with average monthly sales,
14 exclusive of wine sales, of not less than \$5,000. The term shall
15 also include a licensed establishment with an interior
16 connection to a grocery store and the separate and segregated
17 portion of any other retail establishment which is dedicated
18 solely to the sale of food, food products and supplies for human
19 consumption on or off the premises with average monthly sales
20 with respect to the separate or segregated portion, exclusive of
21 wine sales, of not less than \$5,000.

22 "Higher Education Scholarship Law." The act of January 25,
23 1966 (1965 P.L.1546, No.541), referred to as the Higher
24 Education Scholarship Law.

25 "Licensed establishment." A restaurant, eating place, hotel
26 or club as defined under section 102 of the act of April 12,
27 1951 (P.L.90, No.21), known as the Liquor Code, that operates
28 under a valid liquor or malt or brewed beverage license under
29 Article IV of the Liquor Code. The term shall not include a
30 grocery store or a licensed facility as defined under 4 Pa.C.S.

1 § 1103 (relating to definitions).

2 "Licensed establishment owner." A person who holds a license
3 to sell liquor or malt or brewed beverages at a licensed
4 establishment.

5 "Liquor Code." The act of April 12, 1951 (P.L.90, No.21),
6 known as the Liquor Code.

7 "Mode of instruction." One of the following methods of
8 delivery of a public institution of higher education's
9 curriculum:

10 (1) In person.

11 (2) Via distance learning.

12 (3) A combination of paragraphs (1) and (2).

13 "Office of Administrative Law Judge." An adjudicative office
14 within the Pennsylvania Liquor Control Board charged with the
15 responsibility of presiding at all citation hearings and other
16 enforcement hearings under the act of April 12, 1951 (P.L.90,
17 No.21), known as the Liquor Code.

18 "Part-time student." An eligible student who is enrolled on
19 a less than full-time basis.

20 "Pennsylvania Lottery." The Division of the State Lottery of
21 the Department of Revenue.

22 "Person." Any natural person, corporation, foundation,
23 organization, business trust, estate, limited liability company,
24 licensed corporation, trust, partnership, association or any
25 other form of legal business entity.

26 "Profits." The total value of all cash, tickets and credits
27 used for the play of a video lottery terminal less the amount
28 paid out in prizes. The value of tickets and credits shall be as
29 determined by the secretary.

30 "Public institution of higher education." A community

1 college or an institution which is part of the State System of
2 Higher Education under Article XX-A of the act of March 10, 1949
3 (P.L.30, No.14), known as the Public School Code of 1949.

4 "Scholarship program." The scholarship program established
5 under the act of January 25, 1966 (1965 P.L.1546, No.541),
6 referred to as the Higher Education Scholarship Law.

7 "Secretary." The Secretary of Revenue of the Commonwealth.

8 "State Lottery Law." The act of of August 26, 1971
9 (P.L.351, No.91), known as the State Lottery Law.

10 "Total cost of attendance." The cost of attending a public
11 institution of higher education as determined under the policies
12 and procedures established by the United States Department of
13 Education.

14 "Unfunded total cost of attendance." The total cost of
15 attendance minus the sum of all grants, scholarships, waivers
16 and other categories of gift-aid received, excluding veterans
17 educational benefits.

18 "Video lottery license." A license issued by the secretary
19 authorizing a licensed establishment owner to possess and
20 operate one or more video lottery terminals at the licensed
21 establishment specified in the application for licensure.

22 "Video lottery retailer." A licensed establishment owner
23 that holds a video lottery license.

24 "Video lottery terminal." An interactive electronic terminal
25 or device that is compatible with the central computer system
26 and is approved by the secretary for the play of video lottery
27 games. The term shall not include an authorized slot machine as
28 defined under 4 Pa.C.S. § 1103 (relating to definitions).

29 CHAPTER 3

30 TUITION RELIEF

1 Section 301. Expansion of State scholarship program.

2 (a) Supplemental grants.--Except as provided under
3 subsections (b), (c), (d) and (e) the agency shall award a
4 supplemental grant to an eligible student participating in the
5 scholarship program so that the eligible student's unfunded
6 total cost of attendance is equal to the eligible student's
7 expected family contribution.

8 (b) Minimum unfunded cost.--The unfunded cost of attendance
9 may not be less than \$1,000 annually on a full-time equivalent
10 basis.

11 (c) Contribution up to \$2,000.--In the case of an eligible
12 student whose expected family contribution is between one dollar
13 and \$2,000, the unfunded total cost of attendance shall be
14 \$1,000 annually on a full-time equivalent basis in the first and
15 second years of attendance, \$1,500 on a full-time equivalent
16 basis in the third year of attendance and \$2,000 on a full-time
17 equivalent basis in the fourth year of attendance.

18 (d) Supplemental grant minimum.--Except as provided under
19 subsections (b), (c) and (e), the supplemental grant shall not
20 be less than 75% of the tuition rate of the public institution
21 of higher education applicable to the eligible student's status
22 as a full-time or part-time student.

23 (e) Total cost.--The total amount of all grants,
24 scholarships, waivers and other categories of gift aid,
25 excluding veterans educational benefits, received by an eligible
26 student may not exceed the eligible student's total cost of
27 attendance.

28 Section 302. Tuition relief for additional Commonwealth
29 students.

30 The agency shall award a tuition grant to an eligible student

1 who is not eligible for a supplemental grant under section 301
2 under the following conditions:

3 (1) The student's family income does not exceed
4 \$100,000.

5 (2) The tuition grant shall be equal to 50% of the
6 tuition rate of the public institution of higher education
7 applicable to the eligible student's status as a full-time or
8 part-time student, except that the total amount of all
9 grants, scholarships, waivers and other categories of gift-
10 aid, excluding veterans educational benefits, may not exceed
11 the total cost of attendance and that the unfunded total cost
12 of attendance may not be less than \$1,000 annually on a full-
13 time equivalent basis.

14 (3) A student whose scholarship under the scholarship
15 program is terminated, denied or not renewed for reasons
16 other than financial need, part-time enrollment status,
17 remedial content that does not exceed guidelines for the
18 Federal Pell grant program or mode of instruction may not
19 qualify for a grant under this section.

20 Section 303. Implementation.

21 (a) Awards.--Awards granted in the first year that grants
22 are awarded under this chapter shall be limited to first-time
23 students at public institutions of higher education. One
24 additional class of first-time students shall be added in each
25 subsequent year until the time as all classes of eligible
26 students at the public institution of higher education are
27 included. Nothing in this subsection shall limit the ability of
28 an eligible student who receives a grant under this chapter to
29 remain eligible for a grant upon returning from a gap in
30 enrollment, if all other eligibility requirements are met.

1 (b) Part-time student.--In the case of a part-time student,
2 the amount of the grant under this chapter to which the eligible
3 student is entitled shall be reduced in proportion to the degree
4 to which that student is not attending on a full-time basis,
5 except that the total funds awarded to any eligible student
6 shall not exceed the amount to which the student would have been
7 entitled had the educational program been completed in the
8 standard duration for a full-time student as established by the
9 agency.

10 (c) Reduction.--If sufficient funds are not transferred to
11 the agency under section 304 for the award of grants under this
12 chapter, all grants under this chapter shall be proportionately
13 reduced so as not to exceed the total amount of available funds.

14 (d) Scholarship program hold harmless.--It is the intent of
15 the General Assembly that the transfers to the agency for the
16 purpose of awarding grants to eligible students under this
17 chapter shall supplement, not supplant, grants made by the
18 agency under the scholarship program. In no fiscal year after
19 the effective date of this section shall the number and value of
20 grants awarded by the agency under the scholarship program be
21 less than the number and value of the grants awarded to students
22 in the 2008-2009 fiscal year.

23 (e) Room and board.--The total cost of attendance at a
24 community college shall not include room and board for the
25 purpose of this chapter.

26 (f) Domicile, renewal and transfer.--All provisions
27 regarding domicile, citizenship, renewal of scholarship and
28 transfers established by the agency for the scholarship program
29 shall apply to tuition grants awarded under this chapter.

30 Section 304. Transfer.

1 The Office of the Budget shall annually transfer proceeds
2 from the fund to the agency as follows:

3 (1) As of July 15, 2009, and April 15 of each year
4 thereafter, the Secretary of the Budget shall certify the
5 total amount of revenue that will be available for transfer.
6 In calculating the total amount of available revenue, the
7 Secretary of the Budget shall take into account all of the
8 following:

9 (i) (A) For the certification to be completed no
10 later than July 15, 2009, revenue which:

11 (I) has been advanced by the Commonwealth or
12 appropriated by the General Assembly to or
13 deposited into the fund prior to the date of
14 certification; and

15 (II) is reasonably projected to be deposited
16 into the fund during the six months following the
17 date on which the certification is made.

18 (B) The certification under this subparagraph
19 shall be applicable to the fiscal year in which
20 certification is made. The Secretary of the Budget
21 shall only certify an amount that is sustainable in
22 subsequent years.

23 (ii) (A) For certifications for fiscal years after
24 2009-2010, revenue which:

25 (I) has been advanced by the Commonwealth or
26 appropriated by the General Assembly to or
27 deposited into the fund since the conclusion of
28 the period which the prior certification covered;
29 and

30 (II) is reasonably projected to be deposited

1 into the fund during the six months following the
2 date on which the certification is made.

3 (B) The certifications under this subparagraph
4 shall be applicable to the fiscal year following the
5 fiscal year in which certification is made. The
6 Secretary of the Budget shall only certify an amount
7 that is sustainable in subsequent years.

8 (2) If the actual revenue deposited into the fund during
9 the period which a certification covers exceeds projections,
10 any revenue in excess of the projections shall remain in the
11 fund and may be included in the certification for the
12 subsequent fiscal year.

13 (3) For the 2009-2010 fiscal year, the Office of the
14 Budget shall transfer the amount certified under paragraph
15 (1) to the agency by a payment no later than the first day of
16 September and a second payment no later than the first day of
17 February. For the 2010-2011 fiscal year and each fiscal year
18 thereafter, the Office of the Budget shall transfer the
19 amount certified under paragraph (1) to the agency by a
20 payment no later than the first day of August and a second
21 payment no later than the first day of January.

22 (4) Any portion of the transfer that the agency does not
23 expend in order to comply with this chapter shall be returned
24 to the fund and may be included in the certification for the
25 subsequent fiscal year.

26 CHAPTER 5

27 FUNDING FOR COLLEGE TUITION RELIEF

28 Section 501. Video lottery.

29 (a) Provision.--The secretary, by the authority granted
30 under the State Lottery Law, shall provide for video lottery

1 through use of video lottery terminals by video lottery
2 retailers. Except as set forth under this act, video lottery
3 games shall be operated and administered in conformity with the
4 provisions of the State Lottery Law.

5 (b) Placement.--A video lottery terminal may be placed for
6 operation only on the premises of a licensed establishment at
7 which a video lottery retailer is authorized to place and
8 operate a video lottery terminal under this chapter. A video
9 lottery terminal may not be placed in any other location.

10 (c) Amount.--No more than five video lottery terminals may
11 be placed on the premises of a licensed establishment.

12 (d) Applicability.--The act of December 19, 1988 (P.L.1262,
13 No.156), known as the Local Option Small Games of Chance Act,
14 shall not apply to this act.

15 Section 502. Licensing.

16 (a) Eligibility.--A licensed establishment owner may apply
17 to the secretary for a video lottery license under this section
18 on a form prescribed by the secretary if all of the following
19 conditions are met:

20 (1) The license to sell liquor or malt or brewed
21 beverages at the licensed establishment is valid and in
22 effect and is not in safekeeping or under suspension at the
23 time the application is filed.

24 (2) The licensed establishment owner is in good standing
25 with the Pennsylvania Liquor Control Board.

26 (3) The licensed establishment owner agrees to have
27 sufficient funds available at the licensed establishment to
28 pay out anticipated prizes.

29 (b) Requirements.--The following shall apply to video
30 lottery licenses issued under this section:

1 (1) A video lottery license may be issued at the
2 discretion of the secretary. Nothing in this chapter is
3 intended or shall be construed to create an entitlement to a
4 license by any person.

5 (2) Before issuing a video lottery license, the
6 secretary shall consider at least the following factors:

7 (i) The financial fitness, responsibility and
8 security of the applicant and the applicant's business.

9 (ii) The volume of expected number of plays on a
10 video lottery terminal at the licensed establishment.

11 (3) (i) Notwithstanding subparagraph (ii), if the
12 secretary finds that the experience, character and
13 general fitness of the applicant and any officers,
14 directors, stockholders and partners of the applicant and
15 any other person that shares or will share in the profits
16 or participates or will participate in the management of
17 the affairs of the applicant are such that the
18 participation of the applicant as a video lottery
19 retailer will be consistent with the public interest,
20 convenience and necessity, the secretary may grant a
21 video lottery license to the applicant.

22 (ii) The secretary may refuse to issue a license
23 under this section, or may suspend or revoke a license,
24 if:

25 (A) The applicant or licensee or an officer,
26 director, stockholder or partner of the applicant or
27 any other person that shares or will share in the
28 profits or participates or will participate in the
29 management of the affairs of the applicant:

30 (I) Has been convicted of a crime involving

1 moral turpitude.

2 (II) Has been convicted of pool selling or
3 bookmaking under 18 Pa.C.S. § 5514 (relating to
4 pool selling and bookmaking) or other form of
5 illegal gambling.

6 (III) Has been convicted of any fraud or
7 misrepresentation in any context.

8 (IV) Has violated any rule, regulation or
9 order of the department.

10 (B) The applicant is not the owner or lessee of
11 the licensed establishment where it intends to
12 conduct video lottery.

13 (C) A person other than the applicant shares or
14 will share in the profits of the applicant other than
15 as a bona fide owner of a financial interest in the
16 applicant or participates or will participate in the
17 management of the affairs of the applicant other than
18 as a bona fide manager of the operations of the
19 licensed establishment.

20 (4) The secretary may issue a temporary video lottery
21 license upon the terms and conditions as the secretary deems
22 necessary, desirable or proper to effectuate the provisions
23 of this chapter.

24 (5) The secretary shall refuse to grant or renew a video
25 lottery license and shall suspend and may revoke the video
26 lottery license of any video lottery retailer that is not
27 compliant with the tax laws of this Commonwealth.

28 (c) Lottery tickets.--A video lottery retailer may be
29 required to sell Pennsylvania Lottery tickets as determined by
30 the secretary.

1 (d) Application fees.--An applicant for a video lottery
2 license shall pay a nonrefundable initial license application
3 fee of \$500 and a nonrefundable annual license renewal fee of
4 \$100. The fees collected under this subsection shall be
5 deposited in the account.

6 (e) Third-party disclosure.--Each video lottery license
7 applicant or licensee shall accept any risk of adverse public
8 notice, embarrassment, criticism, damages or financial loss,
9 which may result from disclosure or publication by a third party
10 of material or information received by the department in
11 connection with an application or license. The video lottery
12 license applicant or licensee shall expressly waive any and all
13 claims against the secretary, the department, the Commonwealth
14 and its employees from damages as a result of disclosure or
15 publication by a third party of any material or information
16 supplied or developed under this section.

17 Section 503. Central computer system.

18 The secretary shall establish a protocol for the use of a
19 central computer system. All licensed video lottery terminals
20 must be linked at all times to the central computer system.

21 Section 504. Video lottery terminal.

22 In addition to the requirements established by the secretary
23 under the State Lottery Law for lottery terminals, a video
24 lottery terminal:

25 (1) Shall be linked to and have the ability to interact
26 with the central computer system.

27 (2) Shall not directly dispense coins, cash, tokens or
28 any other article of exchange or value that represents
29 winnings, except for tickets. The ticket shall indicate the
30 total amount of credits and the cash value of winnings or

1 prizes, and the player shall turn in the ticket to the
2 appropriate person at the licensed establishment to receive
3 the cash award.

4 (3) Shall not award a ticket or prize with a value in an
5 amount equal to or greater than \$600 for any individual play
6 or other amount as determined by the secretary and published
7 in the Pennsylvania Bulletin from time to time.

8 (4) Shall not pay out less than a theoretical payout
9 percentage. The secretary may adopt regulations that set and
10 define the theoretical payout percentage of video lottery
11 play, which shall not be less than 80%.

12 Section 505. Fees.

13 In addition to the application fee under section 502(d) a
14 video lottery retailer shall pay at times determined by the
15 secretary but no more frequently than annually, a fee of \$500
16 per video lottery terminal or other amount as determined by the
17 secretary, and published in the Pennsylvania Bulletin. The fees
18 shall be deposited in the account.

19 Section 506. College Tuition Relief Fund.

20 (a) Establishment.--

21 (1) There is established a separate fund in the State
22 Treasury to be known as the College Tuition Relief Fund.

23 (2) A restricted receipts account to be known as the
24 Enabling Students to Attend College Account is established
25 within the fund.

26 (b) Deposits.--Notwithstanding section 311(a) of the State
27 Lottery Law, money shall be deposited as follows:

28 (1) All fees, fines and penalties imposed under this
29 chapter shall be deposited into the account as collected.

30 (2) All profits from the play of a video lottery

terminal and proceeds seized under section 507(e) shall be deposited into the fund.

(c) Distributions.--

(1) Money in the account shall be distributed to the department, the Pennsylvania Liquor Control Board and the Pennsylvania State Police for the cost of carrying out their respective obligations under this chapter and are appropriated on a continuing basis for that purpose. The costs shall include the start-up and ongoing cost of the central computer system, video lottery terminals and the administration and enforcement of this chapter. Payments to the department, the Pennsylvania Liquor Control Board and the Pennsylvania State Police shall be based on annual budgets submitted through the Office of the Budget.

(2) Money in the fund shall be distributed pursuant to this paragraph. The money is appropriated on a continuing basis for that purpose. The following shall apply:

(i) Money in the fund representing 25% of the profits from a video lottery terminal shall be distributed to the video lottery retailer holding the video lottery license permitting the operation of the terminal.

(ii) Money in the fund representing 50% of the profits from all video lottery terminals shall remain in the fund to be used for the program under Chapter 3.

(iii) The balance of money in the fund shall be paid first to the department, to the Pennsylvania Liquor Control Board and to the Pennsylvania State Police for any amount needed to pay the costs under paragraph (1) not funded by money in the account and then to the

1 General Fund.

2 (d) State Lottery Fund hold harmless.--If, on June 15, 2010,
3 and June 15 of each year thereafter, the secretary determines
4 that a decrease in the revenue deposited in that fiscal year in
5 the State Lottery Fund is due to the play of video lottery
6 terminals in this Commonwealth, the secretary shall certify the
7 amount of the decrease due to the play. The secretary's
8 determination shall be based upon an audit or other report of an
9 independent expert with respect to such decrease. A sum equal to
10 the amount of the decrease shall be deducted from the amount to
11 be distributed to the General Fund under subsection (c)(2)(iii)
12 in the next fiscal year and deposited in the State Lottery Fund.
13 The cost of the audit or independent report may be included in
14 the costs of the department to be funded from money in the
15 account under subsection (c)(1).

16 Section 507. Enforcement.

17 (a) Unlawful acts.--Except as provided under subsections (b)
18 and (c), it shall be unlawful for any person to do any of the
19 following:

20 (1) To operate or attempt to operate a video lottery
21 terminal or to receive a prize or attempt to receive a prize
22 from a video lottery terminal if the person is under 21 years
23 of age.

24 (2) To permit an individual under 21 years of age to
25 play a video lottery terminal or provide a prize to an
26 individual under 21 years of age as a result of playing a
27 video lottery terminal.

28 (3) To permit a visibly intoxicated patron to play a
29 video lottery terminal.

30 (4) To possess a gaming machine.

- 1 (5) To install or operate more video lottery terminals
2 in a licensed establishment than permitted by the department.
- 3 (6) To possess a video lottery terminal without holding
4 a current video lottery license.
- 5 (7) To possess or use or permit any person to possess or
6 use a cheating or thieving device.
- 7 (8) To provide false information or documents in or with
8 respect to an application for a video lottery license or in
9 or with respect to any other information or document required
10 in the administration of this chapter.
- 11 (9) To possess a video lottery terminal with altered or
12 missing identification.
- 13 (10) To alter or remove or to permit the alteration or
14 removal of the identification plate on a video lottery
15 terminal.
- 16 (11) To tamper or permit tampering with the connection
17 of the video lottery terminal to the central computer system.
- 18 (12) To award or permit the award of a prize in excess
19 of the amount established under section 504 for an individual
20 play.
- 21 (13) To fail to report or pay or to fail to truthfully
22 account for and pay any license fee or other amount imposed
23 under this chapter.
- 24 (14) To attempt in any manner to evade or defeat the
25 payment of any license fee or other amount imposed under this
26 chapter.
- 27 (15) To permit a video lottery terminal to be
28 transported to or repaired or opened on the premises of a
29 licensed establishment by a person other than a person
30 authorized by the secretary.

1 (16) To use currency other than lawful coin or legal
2 tender of the United States or a coin not of the same
3 denomination as the coin required to be used in the video
4 lottery terminal.

5 (17) To possess any device, equipment or material which
6 the person knows has been manufactured, distributed, sold,
7 tampered with or serviced in violation of this chapter with
8 the intent to use the device, equipment or material as though
9 it had been manufactured, distributed, sold, tampered with or
10 serviced under this chapter.

11 (18) To sell, offer for sale, represent or pass off as
12 lawful any device, equipment or material which the person
13 knows has been manufactured, distributed, sold, tampered with
14 or serviced in violation of this chapter.

15 (19) To violate or knowingly permit the violation of any
16 provision of this chapter.

17 (b) Compliance checks.--Notwithstanding any provision of
18 law, the enforcement bureau may conduct compliance checks in
19 licensed establishments. An individual who is under 21 years of
20 age may play a video lottery terminal and receive a prize from
21 playing the video lottery terminal in a licensed establishment
22 if all of the following apply:

23 (1) The individual is at least 18 years of age.

24 (2) The individual is an officer, employee or intern of
25 the enforcement bureau.

26 (3) The individual has completed training specified by
27 the enforcement bureau.

28 (4) The individual is acting within the scope of
29 prescribed duties.

30 (5) The individual is acting under the direct control or

supervision of an enforcement bureau officer who is at least 21 years of age.

(c) Cheating device.--An authorized employee of the enforcement bureau or an authorized employee of the department may possess and use a cheating or thieving device, counterfeit or altered billet, ticket, token or similar objects accepted by a video lottery terminal or counterfeit or altered video lottery terminal-issued tickets or credits in performance of the duties of employment.

(d) Criminal penalties.--In addition to any other penalties provided by law, the following shall apply:

(1) The provisions of 18 Pa.C.S. § 4902 (relating to perjury), § 4903 (relating to false swearing) or § 4904 (relating to unsworn falsification to authorities) shall apply to any person providing information or making any statement, whether written or oral, as required under this chapter.

(2) A person convicted of violating subsection (a)(1), (2) and (3) commits a summary offense.

(3) Except for subsection (a)(1), (2) and (3), a person convicted of violating any of the provisions of subsection (a) commits a misdemeanor of the first degree and shall pay a fine of not less than \$5,000. Except for subsection (a)(1), (2) and (3), a person convicted of violating any of the provisions of subsection (a) that is convicted of a second or subsequent violation commits a felony of the second degree and shall pay a fine of not less than \$15,000.

(e) Seizure, forfeiture and destruction of gaming machines.--

(1) Gaming machines shall be considered to be per se

1 illegal. Gaming machines and the proceeds therefrom may be
2 seized upon view as illegal contraband by the enforcement
3 bureau and any other law enforcement agency. The owner of a
4 gaming machine shall have no right to compensation for the
5 seizure and destruction of a gaming machine or the seizure of
6 proceeds of the gaming machine.

7 (2) (i) Notwithstanding any other provision of law, the
8 Office of Administrative Law Judge shall have the
9 authority to order forfeiture to the Commonwealth of
10 gaming machines and proceeds from the gaming machines
11 seized by the enforcement bureau and destruction of the
12 gaming machine.

13 (ii) Upon adjudication following a hearing, the
14 bureau may initiate forfeiture proceedings under this
15 section by filing a motion with the Office of
16 Administrative Law Judge.

17 (iii) The motion may be filed at any time following
18 the issuance of the adjudication and disposition of all
19 appeals. The motion shall include all of the following:

20 (A) A list and description of the property to be
21 forfeited.

22 (B) The time and place of seizure.

23 (C) The person in possession at time of seizure.

24 (D) The owner, if known.

25 (E) An attestation that the enforcement bureau
26 has sent a copy of the motion and a notice of
27 forfeiture to the video lottery retailer or to the
28 owner or possessor of the gaming machine by certified
29 mail at the last known address on file with the
30 Pennsylvania Liquor Control Board.

1 (iv) The notice of forfeiture under subparagraph
2 (iii) (E) shall state that the gaming machines will be
3 destroyed and proceeds will be forfeited to the
4 Commonwealth by operation of law, unless the licensed
5 establishment owner or possessor of the gaming machine
6 files a written objection with the Office of
7 Administrative Law Judge setting forth a right of
8 possession of the seized property. The written objection
9 must be postmarked within 30 days of the mailing date of
10 the notice.

11 (v) The Office of Administrative Law Judge shall
12 issue an order of forfeiture and destruction if the
13 Administrative Law Judge is satisfied that the
14 requirements of this subsection have been met.

15 (vi) Upon receipt of a written objection to
16 forfeiture and destruction from the licensed
17 establishment owner or possessor of the gaming machine,
18 the Office of Administrative Law Judge shall issue an
19 order denying the motion for an order of forfeiture and
20 destruction.

21 (vii) The licensed establishment owner, owner or
22 possessor of the gaming machine or enforcement bureau
23 shall have a right of appeal from an order issued under
24 subparagraph (v) or (vi) in accordance with the
25 procedures under section 471 of the Liquor Code for
26 appeals of adjudications issued by the Office of
27 Administrative Law Judge, except that any appeal will not
28 place in issue the finding of fact, conclusion of law or
29 sanction of the underlying adjudication.

30 (3) This subsection shall apply to cases involving

1 gaming machines and proceeds seized by the enforcement bureau
2 prior to the effective date of this subsection.

3 (f) Administrative sanctions.--

4 (1) In addition to any other sanction, penalty or remedy
5 authorized by law or regulation, the secretary may impose any
6 sanction, penalty or remedy for a violation of this chapter
7 that is also available to the secretary under the State
8 Lottery Law.

9 (2) The Office of Administrative Law Judge shall impose
10 all of the following penalties with respect to an order of
11 forfeiture and destruction issued under subsection (e):

12 (i) For a first violation, a penalty of at least
13 \$1,000 and not more than \$5,000 against the owner or
14 possessor of a gaming machine seized by the bureau of
15 enforcement and for each subsequent violation, a penalty
16 of \$15,000.

17 (ii) In the case of a gaming machine seized from a
18 licensed establishment, for a first violation, a
19 suspension of the licensed establishment owner's liquor
20 license for not less than seven consecutive days and for
21 each subsequent violation, a suspension of the liquor
22 license for not less than 14 consecutive days.

23 (3) The Office of Administrative Law Judge shall impose
24 all of the following penalties with respect to any violation
25 of this chapter:

26 (i) For a first violation, a penalty of at least
27 \$1,000 and not more than \$5,000 and for each subsequent
28 violation, a penalty of \$15,000.

29 (ii) For a first violation by a video lottery
30 retailer, a suspension of the liquor license held by the

1 video lottery retailer for each licensed establishment
2 where the video lottery retailer operates video lottery
3 terminals under a video lottery license and for each
4 subsequent violation, a suspension of each such liquor
5 license for not less than 14 consecutive days.

6 (4) A liquor license suspension imposed under paragraph
7 (2) or (3) shall begin within 30 days following the
8 imposition of the suspension.

9 Section 508. Local taxes and fees.

10 Video lottery terminals shall not be exempt from taxes and
11 amusement fees imposed by local municipalities.

12 Section 509. Exemption from State gaming laws.

13 The following provisions shall not apply to video lottery
14 terminals authorized under this chapter and their use as
15 authorized under this chapter:

16 (1) 4 Pa.C.S. Pt. II (relating to gaming).

17 (2) 18 Pa.C.S. § 5513 (relating to gambling devices,
18 gambling, etc.).

19 (3) The act of December 19, 1988 (P.L.1262, No.156),
20 known as the Local Option Small Games of Chance Act.

21 Section 510. Exemption from Federal regulation.

22 The General Assembly declares that the Commonwealth is exempt
23 from section 2 of the Gambling Devices Transportation Act (64
24 Stat. 1134, 15 U.S.C. § 1172). Shipments of approved video
25 lottery terminals into this Commonwealth in compliance with
26 sections 3 and 4 of the Gambling Devices Transportation Act (15
27 U.S.C. §§ 1173 and 1174) shall be deemed legal shipments into
28 this Commonwealth.

29 CHAPTER 51

30 MISCELLANEOUS PROVISIONS

1 Section 5101. Severability.

2 The provisions of this act are severable. If any provision of
3 this act or its application to any person or circumstance is
4 held invalid, the invalidity shall not affect other provisions
5 or applications of this act which can be given effect without
6 the invalid provision or application.

7 Section 5102. Legislative intent.

8 The General Assembly finds that the cost of attending a
9 public community college or State university is increasingly out
10 of reach for Pennsylvania families. Therefore, the General
11 Assembly declares that the authorization of video lottery for
12 the purpose of raising funds to provide scholarships for
13 individuals seeking higher education is in the public interest.
14 The intent of the General Assembly is to confirm the authority
15 of the secretary under the State Lottery Law to conduct video
16 lottery and that the video lottery games are outside and
17 unrelated to gaming as authorized under 4 Pa.C.S. Pt. II
18 (relating to gaming).

19 Section 5103. Temporary regulations.

20 (a) Promulgation.--In order to facilitate the prompt
21 implementation of Chapter 5, the department may promulgate
22 temporary regulations which shall not be subject to:

23 (1) Sections 201, 202 and 203 of the act of July 31,
24 1968 (P.L.769, No.240), referred to as the Commonwealth
25 Documents Law.

26 (2) The act of June 25, 1982 (P.L.633, No.181), known as
27 the Regulatory Review Act.

28 (b) Expiration.--The authority provided to the department to
29 adopt temporary regulations under subsection (a) shall expire
30 two years from the effective date of this section. Regulations

adopted after the two-year period shall be promulgated as provided by law.

Section 5104. Appropriations.

(a) Department appropriations.--The sum of \$20,000,000 is appropriated from the General Fund to the Department of Revenue for the fiscal period July 1, 2009, to June 30, 2010, to prepare for, implement and administer the provisions of this act. The money appropriated under this subsection shall be considered a loan from the General Fund and shall be repaid to the General Fund. The appropriation shall be a two-year appropriation and shall not lapse until June 30, 2011.

(b) Pennsylvania Liquor Control Board appropriations.--The sum of \$2,000,000 is appropriated from the General Fund to the Liquor Control Board for the fiscal period July 1, 2009, to June 30, 2010, to prepare for, implement and administer the provisions of this act. The money appropriated under this subsection shall be considered a loan from the General Fund and shall be repaid to the General Fund. The appropriation shall be a two-year appropriation and shall not lapse until June 30, 2011.

(c) Pennsylvania State Police appropriations.--The sum of \$3,000,000 is appropriated from the General Fund to the enforcement bureau of the Pennsylvania State Police for the fiscal period July 1, 2009, to June 30, 2010, to prepare for, implement and administer the provisions of this act. The money appropriated under this section shall be considered a loan from the General Fund and shall be repaid to the General Fund. The appropriation shall be a two-year appropriation and shall not lapse until June 30, 2011.

Section 5105. Effective date.

1 This act shall take effect immediately.