

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1921 Session of
2009

INTRODUCED BY STURLA, AUGUST 10, 2009

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, AUGUST 10, 2009

AN ACT

1 Providing for a video lottery program and host municipality
2 revenue allocations; establishing penalties; and making
3 appropriations.

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

6 CHAPTER 1

7 GENERAL PROVISIONS

8 Section 101. Short title.

9 This act shall be known and may be cited as the Video Lottery
10 Law.

11 Section 102. Definitions.

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

15 "Account." The Video Lottery Administration Account.

16 "Applicant." A person who applies for a license or the
17 renewal of a license under Chapter 5.

18 "Central computer system." A central site computer system
19 controlled by the Department of Revenue that at all times is

1 connected to video lottery terminals at licensed establishments
2 at which video lottery retailers are authorized to place and
3 operate video lottery terminals and that, at a minimum, is
4 capable of monitoring, communicating, auditing, retrieving
5 information, generating games for and activating and disabling
6 each video lottery terminal.

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

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

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

18 "Enforcement Bureau." The Bureau of Liquor Control
19 Enforcement of the Pennsylvania State Police.

20 "Fund." The Video Lottery Fund.

21 "Gaming machine." A device or machine that has the outcome
22 of play primarily determined by chance. The term shall include
23 an antique slot machine under 18 Pa.C.S. § 5513(c) (relating to
24 gambling devices, gambling, etc.) when used for profit. The term
25 shall not include any of the following:

26 (1) A coin operated amusement machine.

27 (2) A video lottery terminal that has all of its seals
28 or identification plates.

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

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

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

6 "Grocery store." A retail establishment, that is less than
7 2,500 square feet or more than 8,500 square feet in size,
8 commonly known as a grocery store, supermarket or delicatessen,
9 where food, food products and supplies are sold for human
10 consumption on or off the premises with average monthly sales,
11 exclusive of wine sales, of not less than \$5,000. The term shall
12 also include a licensed establishment with an interior
13 connection to a grocery store and the separate and segregated
14 portion of any other retail establishment which is dedicated
15 solely to the sale of food, food products and supplies for human
16 consumption on or off the premises with average monthly sales
17 with respect to the separate or segregated portion, exclusive of
18 wine sales, of not less than \$5,000.

19 "Host municipality." A municipality with one or more video
20 lottery terminals located within its municipal boundaries.

21 "Licensed establishment." A restaurant, eating place, hotel
22 or club as defined under section 102 of the act of April 12,
23 1951 (P.L.90, No.21), known as the Liquor Code, that operates
24 under a valid liquor or malt or brewed beverage license under
25 Article IV of the Liquor Code. The term shall not include a
26 grocery store or a licensed facility as defined under 4 Pa.C.S.
27 § 1103 (relating to definitions).

28 "Licensed establishment owner." A person who holds a license
29 to sell liquor or malt or brewed beverages at a licensed
30 establishment.

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

3 "Manufacturer." A person holding a manufacturer's license
4 issued under Chapter 5 allowing the person to engage in the
5 business of designing, building, constructing, assembling or
6 manufacturing video lottery terminals, the electronic computer
7 components of video lottery terminals, the random number
8 generator of video lottery terminals or the cabinets in which
9 video lottery terminals are housed, and whose product is
10 intended for sale, lease or other assignment to an operator.

11 "Municipality." A city, borough, incorporated town or
12 township.

13 "Operator." A person holding an operator's license issued
14 under Chapter 5 allowing the person to do all of the following:

- 15 (1) Purchase or lease a specified number of video
16 lottery terminals from one or more manufacturers.
- 17 (2) Service and repair those video lottery terminals.
- 18 (3) Enter into contracts with video lottery retailers
19 for placement of those video lottery terminals in licensed
20 establishments where video lottery terminals have been
21 authorized for placement and operation under Chapter 5.

22 "Pennsylvania Lottery." The Division of the State Lottery of
23 the Department of Revenue.

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

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

determined by the Secretary of Revenue.

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

"Service technician." An individual holding a service technician's license issued under Chapter 5 allowing the individual to service, maintain and repair video lottery terminals. A service technician may be a sole proprietor, partner or an employee of a person licensed under Chapter 5 or an employee of a business not licensed under Chapter 5 that services, maintains and repairs video lottery terminals owned or leased by an operator through one or more service technicians.

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

"Video lottery license." A license issued by the Secretary of Revenue authorizing the placement and operation of one or more video lottery terminals at the licensed establishment specified in the application for licensure.

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

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

CHAPTER 3

HOST MUNICIPALITY REVENUE ALLOCATIONS

Section 301. Host municipality share.

Each host municipality shall receive a share of the revenue under section 506(c)(3)(i) derived from the video lottery terminals located within its municipal boundaries. A host

1 municipality's share shall be equivalent to 50% of the profits
2 from all video lottery terminals located within the boundaries
3 of the municipality.

4 Section 302. Transfer.

5 The Office of the Budget shall annually transfer proceeds
6 from the fund to host municipalities as follows:

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

12 (i) (A) For the certification to be completed no
13 later than August 15, 2009, revenue which:

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

18 (II) is reasonably projected to be deposited
19 into the fund during the six months following the
20 date on which the certification is made.

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

26 (ii) (A) For certification for fiscal years after
27 2009-2010, revenue which:

28 (I) has been advanced by the Commonwealth or
29 appropriated by the General Assembly to or
30 deposited into the fund since the conclusion of

1 the period which the prior certification covered;
2 and

3 (II) is reasonably projected to be deposited
4 into the fund during the six months following the
5 date on which the certification is made.

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

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

16 (3) For the 2009-2010 fiscal year, the Office of the
17 Budget shall transfer each host municipality's share of the
18 amount certified under paragraph (1) to the host municipality
19 by a payment no later than the first day of October and a
20 second payment no later than the first day of March. For the
21 2010-2011 fiscal year and each year thereafter, the Office of
22 the Budget shall transfer each host municipality's share of
23 the amount certified under paragraph (1) to the host
24 municipality by a payment no later than the first day of
25 August and a second payment no later than the first day of
26 January.

27 (4) Any portion of the transfer that a host municipality
28 does not expend shall be returned to the fund and may be
29 included in the certification for the subsequent fiscal year.

30 CHAPTER 5

FUNDING FOR HOST MUNICIPALITIES

Section 501. Video lottery.

(a) Provision.--The secretary, by the authority granted under the State Lottery Law, shall provide for video lottery through use of video lottery terminals. Except as set forth under this act, video lottery terminals shall be operated and administered in conformity with the provisions of the State Lottery Law.

(b) Placement, contracts with operators.--A video lottery terminal may be placed for operation only on the premises of a licensed establishment owned by a video lottery retailer that has entered into a contract with an operator authorized to place and operate a video lottery terminal under this chapter at the licensed establishment. A video lottery terminal may not be placed in any other location. A contract between a video lottery retailer and an operator shall provide, among other things, for the payment by the operator to the video lottery retailer of at least 22.5% of the profits from the video lottery terminals to be placed in the video lottery retailer's licensed establishment under the contract.

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

(d) Allocation of video lottery terminals.--The secretary shall establish and publish in the Pennsylvania Bulletin an initial application date, which shall be no fewer than 45 days following the date of publication, by which a licensed establishment owner may submit an application for a video lottery license. The department will make its initial decisions for the placement of video lottery terminals in licensed establishments for which applications have been submitted on or

1 before the initial application date and are approved for a video
2 lottery license. Additional video lottery terminals shall be
3 approved for placement by the department to provide equitable
4 access of terminals to video lottery retailers in all regions in
5 this Commonwealth and to optimize contributions to the fund.

6 (e) Licenses to be issued.--The secretary may issue the
7 following types of licenses under this chapter:

8 (1) A manufacturer's license, which is required for any
9 person seeking to manufacture video lottery terminals for use
10 in this Commonwealth.

11 (2) An operator's license, which is required for any
12 person seeking to engage in the business of placing and
13 operating video lottery terminals in this Commonwealth. An
14 operator may obtain video lottery terminals only from a
15 manufacturer. An operator shall be responsible for all costs
16 for connection of its video lottery terminals with the
17 central computer system and the installation, repair and
18 maintenance of the video lottery terminals.

19 (3) A video lottery license, which is required for a
20 licensed establishment owner seeking to conduct video lottery
21 at the licensed establishment.

22 (4) A service technician's license, which is required
23 for an individual seeking to service, maintain and repair
24 video lottery terminals in this Commonwealth.

25 Section 502. Video lottery licenses.

26 (a) Eligibility.--A licensed establishment owner may apply
27 to the secretary for a video lottery license under this section
28 on a form prescribed by the department if all of the following
29 conditions are met:

30 (1) The license to sell liquor or malt or brewed

1 beverages at the licensed establishment is valid and in
2 effect and is not in safekeeping or under suspension at the
3 time the application is filed.

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

6 (3) The licensed establishment owner agrees to have
7 sufficient funds available at the licensed establishment to
8 pay out anticipated prizes.

9 (4) The licensed establishment owner has or agrees to
10 have within six months of application, and to maintain for
11 the duration of the video lottery license, at least 50% of
12 its alcohol service personnel certified as having
13 successfully completed an alcohol beverage servers training
14 program, as provided under section 471.1 of the Liquor Code.

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

17 (1) A video lottery license may be issued at the
18 discretion of the secretary. The secretary shall make a
19 determination within 60 days of receiving all required
20 information from an applicant. Nothing in this chapter is
21 intended or shall be construed to create an entitlement to a
22 license by any person.

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

25 (i) The likelihood of the applicant's business
26 remaining in operation for the duration of the current
27 valid liquor or malt or brewed beverage license under
28 Article IV of the Liquor Code.

29 (ii) Compliance of the applicant and the applicant's
30 business with all laws of this Commonwealth.

1 (iii) Security of the applicant's business.

2 (iv) Whether the volume of expected number of plays
3 on a video lottery terminal at the licensed establishment
4 is sufficient to cover the cost of placing and
5 maintaining the video lottery terminal at the licensed
6 establishment. The department shall annually publish in
7 the Pennsylvania Bulletin the threshold to be used under
8 this subparagraph.

9 (3) The secretary may refuse to issue a license under
10 this section, or may suspend or revoke a license, if:

11 (i) The secretary finds that the experience,
12 character and general fitness of the applicant and any
13 officers, directors, stockholders and partners of the
14 applicant and any other person that shares or will share
15 in the profits or participates or will participate in the
16 management of the affairs of the applicant are such that
17 the participation of the applicant as a video lottery
18 retailer will not be consistent with the public interest.

19 (ii) The applicant or an officer, director,
20 stockholder or partner of the applicant or any other
21 person that shares or will share in the profits or
22 participates or will participate in the management of the
23 affairs of the applicant:

24 (A) Has been convicted of a crime involving
25 moral turpitude.

26 (B) Has been convicted of illegal gambling
27 activities including with respect to lotteries,
28 gambling devices, gambling, or pool selling or
29 bookmaking under 18 Pa.C.S. § 5512 (relating to
30 lotteries, etc.), 5513 (relating to gambling devices,

1 gambling, etc.) or 5514 (relating to pool selling and
2 bookmaking) or similar laws of another state.

3 (C) Has been convicted of any fraud or
4 misrepresentation in any context.

5 (D) Has failed to comply with the terms of a
6 contract or a license issued under this section.

7 (E) Has violated any rule, regulation or order
8 of the department.

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

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

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

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

27 (6) The secretary shall refuse to renew a video lottery
28 license and shall suspend and may revoke the video lottery
29 license issued to a video lottery retailer who fails to
30 maintain the licensure requirements of this chapter,

including maintaining the status of the licensed establishment authorized under the license.

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

(d) Term and application fees.--A video lottery license shall be valid for one year following the date of issuance and may be renewed annually upon application of the video lottery retailer. An applicant for a video lottery license shall pay a nonrefundable initial license application fee of \$500 and a nonrefundable annual renewal application fee of \$100.

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

Section 503. Central computer system.

The department shall enter into a contract to purchase or otherwise obtain and maintain control of the central computer system. The contract shall provide for, among other things, the operation of the central computer system and connectivity between the central computer system and all video lottery terminals. All video lottery terminals placed and operating in licensed establishments must be linked at all times to the

1 central computer system. The contractor shall be required to
2 meet the suitability findings under section 504.1.

3 Section 504. Video lottery terminal.

4 In addition to the requirements established by the secretary
5 under the State Lottery Law for lottery terminals, a video
6 lottery terminal:

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

9 (2) Shall not directly dispense coins, cash, tokens or
10 any other article of exchange or value that represents
11 winnings, except for tickets. The ticket shall indicate the
12 total amount of credits and the cash value of winnings or
13 prizes, and the player shall turn in the ticket to the
14 appropriate person at the licensed establishment to receive
15 the cash award.

16 (3) Shall not award a ticket or prize with a value in an
17 amount equal to or greater than \$600 for any individual play
18 or equal to or greater than any other amount established by
19 the Internal Revenue Service as the minimum lottery award for
20 which the video lottery retailer is required to file Form
21 W-2G, or a successor form, for tax purposes. The amount shall
22 be published in the Pennsylvania Bulletin.

23 (4) Shall not pay out less than a theoretical payout
24 percentage. The secretary may adopt regulations that set and
25 define the theoretical payout percentage of video lottery
26 play, which shall not be less than 85%.

27 (5) Shall have a maximum amount per individual play of
28 \$2.

29 (6) Shall have seals and identification plates as
30 required by the department.

1 Section 504.1. Other licenses and suitability.

2 (a) Eligibility.--A person may apply to the secretary for a
3 manufacturer's license, an operator's license or a service
4 technician's license under this section on a form prescribed by
5 the department.

6 (b) Requirements.--The following shall apply to licenses
7 issued under this section:

8 (1) All licenses shall be issued at the discretion of
9 the secretary. The secretary shall make a determination
10 within 60 days of receiving all required information from the
11 applicant. Nothing in this chapter is intended or shall be
12 construed to create an entitlement to a license by any
13 person.

14 (2) The secretary may refuse to issue a license under
15 this section, or may suspend or revoke a license, if any of
16 the following apply:

17 (i) The applicant or the applicant's business is not
18 in compliance with all laws of this Commonwealth.

19 (ii) The secretary finds that the experience,
20 character and general fitness of the applicant and any
21 officers, directors, stockholders and partners of the
22 applicant and any other person that shares or will share
23 in the profits or participates or will participate in the
24 management of the affairs of the applicant will not be
25 consistent with the public interest.

26 (iii) The applicant or an officer, director,
27 stockholder or partner of the applicant or any other
28 person that shares or will share in the profits or
29 participates or will participate in the management of the
30 affairs of the applicant has done any of the following:

1 (A) Failed to comply with the terms of a license
2 issued under this section.

3 (B) Violated any rule, regulation or order of
4 the department.

5 (iv) A person other than the applicant shares or
6 will share in the profits of the applicant other than as
7 a bona fide owner of a financial interest in the
8 applicant or participates or will participate in the
9 management of the affairs of the applicant.

10 (3) The secretary may issue a temporary license upon the
11 terms and conditions as the secretary deems necessary,
12 desirable or proper to effectuate the provisions of this
13 chapter.

14 (4) The secretary shall refuse to grant or renew a
15 license issued under this section and may revoke a license if
16 the applicant is not compliant with the tax laws of this
17 Commonwealth.

18 (c) Term and application fees.--Each license issued under
19 this section shall be valid for a period of three years from the
20 date of issuance and may be renewed for three-year terms upon
21 application of the applicant. Each applicant for a license under
22 this section shall pay a nonrefundable initial application fee
23 of \$500 and a nonrefundable renewal application fee of \$100.

24 (d) Suitability.--In addition to any other specifications
25 and qualifications established by the department, the
26 Pennsylvania State Police shall conduct a background
27 investigation of any applicant under this section, as follows:

28 (1) The applicant shall be required to consent to a
29 background investigation of the applicant, its owners,
30 officers, directors, stockholders and partners, and any other

1 person that shares or will share in the profits or
2 participates or will participate in the management of the
3 affairs of the applicant and shall provide any and all
4 information requested by the Pennsylvania State Police and
5 consent to a release to obtain any and all information
6 necessary for the completion of the background investigation,
7 which shall include fingerprints.

8 (2) The background investigation shall include a
9 security, criminal, credit and suitability investigation by
10 the Pennsylvania State Police, which shall include records of
11 criminal arrests and convictions, no matter where occurring,
12 including Federal criminal history record information. None
13 of the information obtained by the Pennsylvania State Police
14 shall be disclosed publicly nor be subject to disclosure
15 under the act of February 14, 2008 (P.L.6, No.3), known as
16 the Right-to-Know Law.

17 (3) Each application for a license under this section
18 must be accompanied by a nonrefundable fee set by the
19 Pennsylvania State Police for the cost of each individual
20 requiring a background investigation. The reasonable and
21 necessary costs and expenses incurred in any background
22 investigation shall be reimbursed to the Pennsylvania State
23 Police by the applicant.

24 (4) Upon completion of the background investigation, the
25 Pennsylvania State Police shall determine whether the
26 experience, character and general fitness of the applicant
27 and its owners, officers, directors, stockholders and
28 partners, and any other person that shares or will share in
29 the profits or participates or will participate in the
30 management of the affairs of the applicant, are such that the

1 participation of the applicant in the operations of video
2 lottery under this chapter will be consistent with the public
3 interest. The Pennsylvania State Police shall notify the
4 department of its determination, and may share information
5 with the department to the extent permitted by State and
6 Federal law as determined by the Pennsylvania State Police.

7 (5) In determining whether participation by an applicant
8 is consistent with the public interest, the Pennsylvania
9 State Police's standards shall include whether the applicant
10 and its owners, officers, directors, stockholders and
11 partners, and any other person that shares or will share in
12 the profits or participates or will participate in the
13 management of the affairs of the applicant:

14 (i) Have been convicted of a crime involving moral
15 turpitude.

16 (ii) Have been convicted of illegal gambling
17 activities including with respect to lotteries, gambling
18 devices, gambling or pool selling under 18 Pa.C.S. §§
19 5512 (relating to lotteries, etc.), 5513 (relating to
20 gambling devices, gambling, etc.) or 5514 (relating to
21 pool selling and bookmaking) or the similar laws of
22 another state.

23 (iii) Have been convicted of any fraud or
24 misrepresentation in any context.

25 (6) The department shall not issue a license to any
26 applicant whose participation is deemed by the Pennsylvania
27 State Police to be inconsistent with the public interest.
28 Determination of suitability by the Pennsylvania State Police
29 shall not entitle an applicant to receive a license under
30 this chapter.

1 (7) A finding of suitability is a privilege. No
2 applicant has a vested or property right in being found
3 suitable for licensure under this section. A determination of
4 suitability or unsuitability shall not be subject to
5 challenge or appeal.

6 (8) Upon any change in the owners, officers, directors,
7 stockholders and partners of an applicant or any other person
8 that shares or will share in the profits or participates or
9 will participate in the management of the affairs of an
10 applicant, the applicant shall be required to consent to an
11 updated background investigation and updated finding of
12 suitability by the Pennsylvania State Police under this
13 subsection. The department shall revoke the license issued to
14 an applicant in the case of a finding that the applicant is
15 no longer suitable under this paragraph.

16 (e) Employees.--An employee of an applicant who has or will
17 have access to video lottery terminals shall receive and
18 maintain a finding of suitability based on a background check
19 from the Pennsylvania State Police consistent with the
20 provisions of subsection (d). No employee of an applicant shall
21 have access to video lottery terminals until such time as the
22 employee has received a finding of suitability from the
23 Pennsylvania State Police.

24 Section 505. Fees.

25 (a) General rule.--In addition to the application fees
26 required under this chapter, as a condition to the issuance of a
27 license or the renewal of a license, an applicant shall pay the
28 following license fee:

29 (1) An applicant for a manufacturer's license shall pay
30 an initial license fee of \$10,000 and a renewal fee of

1 \$10,000.

2 (2) An applicant for an operator's license shall pay an
3 initial license fee of \$5,000 and a renewal fee of \$5,000. In
4 addition, an operator shall pay at times determined by the
5 secretary, but no more frequently than annually, a fee of
6 \$500 per video lottery terminal that the operator is
7 authorized to place and operate at licensed establishments in
8 this Commonwealth.

9 (3) An applicant for a video lottery license shall pay
10 an initial license fee of \$500 and a renewal fee of \$500. In
11 addition, a video lottery retailer shall pay at times
12 determined by the secretary, but no more frequently than
13 annually, a fee of \$500 per video lottery terminal that has
14 been authorized to be placed at the video lottery retailer's
15 licensed establishment.

16 (4) An applicant for a service technician's license
17 shall pay an initial license fee of \$1,000 and a renewal fee
18 of \$1,000.

19 (b) Increase.--

20 (1) The secretary may increase an application or license
21 fee authorized under this chapter by an amount which shall
22 not exceed the rate of increase in the Consumer Price Index
23 for All Urban Consumers for the Pennsylvania, New Jersey,
24 Delaware and Maryland area for the most recent 12-month
25 period for which figures have been officially reported by the
26 Department of Labor, Bureau of Labor Statistics, immediately
27 prior to the date the increase is due to take effect.

28 (2) Notwithstanding paragraph (1), a fee increase may
29 not occur if the secretary determines that the existing fees
30 are sufficient to pay the costs under section 506(c)(1).

(c) Deposit.--All application and license fees shall be deposited into the account.

Section 506. Video Lottery Fund.

(a) Establishment.--

(1) There is established a separate fund in the State Treasury to be known as the Video Lottery Fund.

(2) A restricted receipts account to be known as the Video Lottery Administration Account is established within the fund.

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

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

(2) All profits from the play of a video lottery terminal received by the department 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 upon appropriation by the General Assembly. The costs shall include the start-up and ongoing cost of the central computer system and the administration and enforcement of this chapter. The department, the Pennsylvania Liquor Control Board and the Pennsylvania State Police shall prepare and annually submit to the chairman of the Appropriations Committee of the Senate and the chairman of the Appropriations Committee of the House of Representatives an itemized budget consisting of amounts to be appropriated out of the account necessary to pay such

1 costs.

2 (2) An operator shall establish and maintain an account
3 in a State depository in this Commonwealth into which the
4 operator shall deposit revenue generated by the play of all
5 video lottery terminals for which the operator has been
6 issued an operator's license equal to 55% of the profits from
7 such terminals. The sums in the account shall be withdrawn
8 weekly by the department and deposited into the fund for
9 distribution under this subsection.

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

13 (i) Money in the fund representing 50% of the
14 profits from all video lottery terminals shall remain in
15 the fund to be allocated as provided under Chapter 3.

16 (ii) The balance of money in the fund shall be
17 allocated as follows:

18 (A) To the department, to the Pennsylvania
19 Liquor Control Board and to the Pennsylvania State
20 Police for any amount needed to pay the costs under
21 paragraph (1) not funded by money in the account.

22 (B) An amount equal to \$3,000,000 per year shall
23 be paid to the department for the program under
24 subsection (e) for a period of five years from the
25 effective date of this section.

26 (C) To the General Fund.

27 (d) State Lottery Fund hold harmless.--If, on June 15, 2010,
28 and June 15 of each year thereafter, the secretary determines
29 that a decrease in the revenue deposited in that fiscal year in
30 the State Lottery Fund is due to the play of video lottery

1 terminals in this Commonwealth, the secretary shall certify the
2 amount of the decrease due to the play. The secretary's
3 determination shall be based upon an audit or other report of an
4 independent expert with respect to such decrease. A sum equal to
5 the amount of the decrease shall be deducted from the amount to
6 be distributed to the General Fund under subsection (c)(3)(ii)
7 in the next fiscal year and deposited in the State Lottery Fund.
8 The cost of the audit or independent report may be included in
9 the costs of the department to be funded from money in the
10 account under subsection (c)(1).

11 (e) Access.--The department shall establish a program to
12 make grants to video lottery retailers who hold a video lottery
13 license for the purpose of making access improvements to a
14 licensed establishment. The amount of such grants shall be
15 limited to any amount paid to the department under subsection
16 (c)(3)(ii)(B).

17 Section 507. Enforcement.

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

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

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

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

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

1 licensed establishment by a person other than a person
2 authorized by this chapter.

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

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

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

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

19 (b) Compliance checks.--Notwithstanding any provision of
20 law, the enforcement bureau may conduct compliance checks in
21 licensed establishments in accordance with this subsection. As
22 part of a compliance check, an individual who is under 21 years
23 of age may play a video lottery terminal and receive a prize
24 from playing the video lottery terminal in a licensed
25 establishment if all of the following apply:

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

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

29 (3) The individual has completed training specified by
30 the enforcement bureau.

1 (4) The individual is acting within the scope of
2 prescribed duties.

3 (5) The individual is acting under the direct control or
4 supervision of an enforcement bureau officer who is at least
5 21 years of age.

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

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

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

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

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

30 (e) Seizure, forfeiture and destruction of gaming

1 machines.--

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

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

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

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

22 (A) A list and description of the property to be
23 forfeited.

24 (B) The time and place of seizure.

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

26 (D) The owner, if known.

27 (E) An attestation that the enforcement bureau
28 has sent a copy of the motion and a notice of
29 forfeiture to the video lottery retailer, the
30 operator or to the owner or possessor of the gaming

1 machine by certified mail return receipt requested at
2 the last known address on file with the Pennsylvania
3 Liquor Control Board.

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

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

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

24 (vii) The licensed establishment owner, operator or
25 owner or possessor of the gaming machine or enforcement
26 bureau shall have a right of appeal from an order issued
27 under subparagraph (v) or (vi) in accordance with the
28 procedures under section 471 of the Liquor Code for
29 appeals of adjudications issued by the Office of
30 Administrative Law Judge, except that any appeal will not

1 place in issue the finding of fact, conclusion of law or
2 sanction of the underlying adjudication.

3 (3) This subsection shall apply to cases involving
4 gaming machines and proceeds seized by the enforcement bureau
5 prior to the effective date of this subsection.

6 (4) In addition to any other law enforcement agency with
7 jurisdiction, the enforcement bureau shall have the
8 jurisdiction and the authority to enter a business in order
9 to enforce the provisions of this section.

10 (f) Administrative sanctions.--

11 (1) In addition to any other sanction, penalty or remedy
12 authorized by law or regulation, the secretary may impose any
13 sanction, penalty or remedy for a violation of this chapter
14 that is also available to the secretary under the State
15 Lottery Law.

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

19 (i) For a first violation, a penalty of at least
20 \$1,000 and not more than \$5,000 against the owner or
21 possessor of a gaming machine seized by the bureau of
22 enforcement and for each subsequent violation, a penalty
23 of \$15,000.

24 (ii) In the case of a gaming machine seized from a
25 licensed establishment that is owned by a video lottery
26 retailer, for a first violation, a suspension of the
27 licensed establishment owner's liquor license for not
28 less than seven consecutive days and for each subsequent
29 violation, a suspension of the liquor license for not
30 less than 14 consecutive days.

1 (iii) In the case of a gaming machine seized from a
2 licensed establishment that is not owned by a video
3 lottery retailer, for a first violation, a suspension of
4 the licensed establishment owner's liquor license for not
5 less than 14 consecutive days and for each subsequent
6 violation, a suspension of the liquor license for not
7 less than 21 consecutive days.

8 (iv) In the case of a gaming machine seized from a
9 place of business other than a licensed establishment,
10 for a first violation, a penalty of at least \$1,000 and
11 not more than \$5,000 against the owner of the place of
12 business from which a gaming machine was seized by the
13 bureau of enforcement, and for each subsequent violation,
14 a penalty of \$15,000.

15 (3) The Office of Administrative Law Judge shall impose
16 all of the following penalties with respect to any violation
17 of this chapter:

18 (i) For a first violation, a penalty of at least
19 \$1,000 and not more than \$5,000 and for each subsequent
20 violation, a penalty of \$15,000.

21 (ii) For a first violation by a video lottery
22 retailer, a suspension of the liquor license held by the
23 video lottery retailer for each licensed establishment
24 where the video lottery retailer operates video lottery
25 terminals under a video lottery license and for each
26 subsequent violation, a suspension of each such liquor
27 license for not less than 14 consecutive days.

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

1 Section 508. Local taxes and fees.

2 (a) General rule.--Any tax or fee imposed by a municipality
3 on amusement devices under any other law shall apply to a video
4 lottery terminal under this chapter.

5 (b) Exemptions.--Except as provided under subsection (a),
6 video lottery terminals shall be exempt from taxes levied under
7 the following:

8 (1) The act of August 5, 1932 (Sp.Sess., P.L.45, No.45),
9 referred to as the Sterling Act.

10 (2) The act of December 31, 1965 (P.L.1257, No.511),
11 known as The Local Tax Enabling Act.

12 (3) The provisions of 53 Pa.C.S. Pt III Subpt. E
13 (relating to home rule and optional plan government).

14 (4) Any statute that confers taxing authority upon a
15 political subdivision.

16 Section 509. Exemption from State gaming laws.

17 The following provisions shall not apply to video lottery
18 terminals authorized under this chapter and their use as
19 authorized under this chapter:

20 (1) 4 Pa.C.S. Pt. II (relating to gaming).

21 (2) 18 Pa.C.S. § 5513 (relating to gambling devices,
22 gambling, etc.).

23 Section 510. Exemption from Federal regulation.

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

1 CHAPTER 51

2 MISCELLANEOUS PROVISIONS

3 Section 5101. Severability.

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

9 Section 5102. Temporary regulations.

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

13 (1) Sections 201, 202 and 203 of the act of July 31,
14 1968 (P.L.769, No.240), referred to as the Commonwealth
15 Documents Law.

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

18 (b) Expiration.--The authority provided to the department to
19 adopt temporary regulations under subsection (a) shall expire
20 two years from the effective date of this section. Regulations
21 adopted after the two-year period shall be promulgated as
22 provided by law.

23 Section 5103. Appropriations.

24 (a) Department appropriations.--The sum of \$20,000,000 is
25 appropriated from the General Fund to the Department of Revenue
26 for the fiscal period July 1, 2009, to June 30, 2010, to prepare
27 for, implement and administer the provisions of this act. The
28 money appropriated under this subsection shall be considered a
29 loan from the General Fund and shall be repaid to the General
30 Fund. The appropriation shall be a two-year appropriation and

1 shall not lapse until June 30, 2011.

2 (b) Pennsylvania Liquor Control Board appropriations.--The
3 sum of \$2,000,000 is appropriated from the General Fund to the
4 Pennsylvania Liquor Control Board for the fiscal period July 1,
5 2009, to June 30, 2010, to prepare for, implement and administer
6 the provisions of this act. The money appropriated under this
7 subsection shall be considered a loan from the General Fund and
8 shall be repaid to the General Fund. The appropriation shall be
9 a two-year appropriation and shall not lapse until June 30,
10 2011.

11 (c) Pennsylvania State Police appropriations.--The sum of
12 \$3,000,000 is appropriated from the General Fund to the
13 enforcement bureau of the Pennsylvania State Police for the
14 fiscal period July 1, 2009, to June 30, 2010, to prepare for,
15 implement and administer the provisions of this act. The money
16 appropriated under this section shall be considered a loan from
17 the General Fund and shall be repaid to the General Fund. The
18 appropriation shall be a two-year appropriation and shall not
19 lapse until June 30, 2011.

20 Section 5104. Effective date.

21 This act shall take effect immediately.