## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL <br> No. $906 \underset{\substack{\text { Sessono } \\ \text { 2011 }}}{ }$

INTRODUCED BY MILLER, DePASQUALE, BARRAR, BENNINGHOFF, BRENNAN, CALTAGIRONE, CARROLL, CONKLIN, DALEY, DAVIDSON, DEASY, EVERETT, DeLUCA, GERGELY, GINGRICH, GROVE, HARKINS, HORNAMAN, KILLION, KORTZ, KOTIK, MASSER, MATZIE, MUSTIO, M. O'BRIEN, PASHINSKI, PAYNE, PERRY, RAPP, READSHAW, REICHLEY, SAINATO, SANTONI, SAYLOR, STURLA, J. TAYLOR, WAGNER, YOUNGBLOOD AND HALUSKA, MARCH 3, 2011

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, MARCH 3, 2011

## AN ACT

Amending the act of December 19, 1988 (P.L.1262, No.156), entitled, as amended, "An act providing for the licensing of eligible organizations to conduct games of chance, for the licensing of persons to distribute games of chance, for the registration of manufacturers of games of chance, and for suspensions and revocations of licenses and permits; requiring records; providing for local referendum by electorate; and prescribing penalties," further providing for definitions, for games of chance permitted, for prize limits, for insured games, for limited sales, for recordkeeping, for eligible organizations' use of locations for conducting small games of chance, for separate individual prize limitations and for revocation of licenses; providing for licensed establishments; further providing for enforcement, for penalties and for advertising; and providing for transfer from General Fund to State Lottery Fund.

The General Assembly of the Commonwealth of Pennsylvania
hereby enacts as follows:
Section 1. The definitions of "daily drawing," "eligible organizations" and "games of chance" in section 3 of the act of December 19, 1988 (P.L.1262, No.156), known as the Local Option

Small Games of Chance Act, amended December 19, 1990 (P.L.812,

No.195) and October 18, 2000 (P.L.602, No.79), are amended and the section is amended by adding definitions to read: Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Daily drawing." A game in which a bona fide member selects or is assigned a number for a chance at a prize with the winner determined by [a] random drawing to take place on the eligible organization's premises [during the same operating day]. The term includes games commonly known as "member sign-in lotteries" and "half-and-half lotteries." Nothing in this act shall be construed to prohibit the carrying over of a jackpot where the winning number has not been entered in the game on a particular operating day. Daily drawing winners may be determined with the aid of a passive selection device or reference to drawings conducted by the department pursuant to the act of August 26, 1971 (P.L.351, No.91), known as the state Lottery Law. Daily drawing chances may not be sold for an amount in excess of $\$ 1$, and no more than one chance per individual may be sold [to an individual during the same operating day.] per drawing. Nothing in this definition shall restrict an eligible organization from conducting more than one drawing per day.
"Electronic monitoring device." An electromechanical device, electrical device or machine that satisfies the following requirements:
(1) Is a contrivance which records time of sale of particular units referred to as games of chance.
(2) Is a device that is able to generate reports for auditing purposes.
(3) Allows for financial auditing reports to be sent electronically to a state agency.
"Eligible organizations." Includes qualifying nonprofit charitable, religious, fraternal and veterans organizations, clubs [and], licensed establishments, civic and service associations as defined by this act. In order to qualify as an eligible organization for purposes of this act, an organization shall have been in existence and fulfilling its stated purposes for one year prior to the date of application for a license. * * *
"Games of chance." Punchboards, daily drawings, weekly drawings, monthly drawings, raffles and pull-tabs, as defined in this act, provided that no such game shall be played by or with the assistance of any mechanical or electrical devices or media other than a dispensing machine or passive selection device and further provided that the particular chance taken by any person in any such game shall not be made contingent upon any other occurrence or the winning of any other contest, but shall be determined solely at the discretion of the purchaser. This definition shall not be construed to authorize any other form of gambling currently prohibited under any provision of Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses). Nothing in this act shall be construed to authorize games commonly known as "slot machines" or "video poker."
"Gross games of chance revenue." The total of cash wagers received by a licensed establishment minus the total of:
(1) Cash or cash equivalent paid out to patrons as a result of playing a game of chance.
(2) Cash paid to purchase annuities to fund prizes payable to patrons over a period of time as a result of playing a game of chance.
(3) Any personal property distributed to a patron as a result of playing a game of chance. This does not include travel expenses, food, refreshments, lodging or services. The term does not include counterfeit money or tokens, coins or currency of other countries which are received while playing a game of chance, except to the extent that they are readily convertible to United States currency, cash taken in fraudulent acts perpetrated against a licensed establishment for which the establishment is not reimbursed.

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"Licensed establishment." A restaurant, eating place or hotel as defined under section 2 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, that operates under a valid liquor, malt or brewed beverage license under Article IV of the Liquor Code. The term does not include a grocery store or a licensed facility as defined under 4 Pa.C.S. § 1103 (relating to definitions).

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Section 2. Section 4 of the act, amended December 19, 1990 (P.L.812, No.195), is amended to read:

Section 4. Games of chance permitted.
Every eligible organization to which a license has been issued under the provisions of this act may conduct games of chance for the purpose of raising funds for general operating expenses and for public interest purposes. [All proceeds of games of chance shall be used exclusively for public interest purposes or for the purchase of games of chance as permitted by
this act.] No more than fifty percent of proceeds may be used for general operating expenses.

Section 3. Section 5 of the act, amended December 19, 1990 (P.L.812, No.195) and October 18, 2000 (P.L.602, No.79), is amended to read:

Section 5. Prize limits.
(a) Individual prize limit.--[The] Except as provided for in subsection (i), the maximum cash value which may be awarded for any single chance shall be [\$500] \$1,000.
(b) Weekly limit. - - No more than [\$5,000] \$20,000 in cash or merchandise shall be awarded by any eligible organization in any seven-day period.
(c) Limit on raffles.--No more than $\$ 5,000$ in cash or merchandise shall be awarded in raffles in any calendar month.
(d) Exception.--An eligible organization may conduct a raffle and award a prize or prizes valued in excess of [\$500] $\$ 1,000$ each only under the following conditions:
(1) The licensing authority has issued a special permit
for the raffle under section 11.
(2) Eligible organizations shall be eligible to receive no more than two special permits in any licensed year except that volunteer fire, ambulance and rescue organizations shall be eligible to receive no more than three special permits in any licensed year.
(3) Only one raffle may be conducted under each special permit.
(4) The total cash value of all prizes shall be no more than $\$ 100,000$ per calendar year.
(e) Limit on daily drawings.--Daily drawings shall be governed by the prize [limitations] limitation contained in
[subsections (a) and (b)] subsection (a). [An eligible organization shall not conduct daily drawings during a period when a weekly drawing is taking place.]
(f) Exception.--The prize limitation contained in [subsections (a) and (b)] subsection (a) may be exceeded by a daily drawing under the following circumstances: a daily drawing may award a prize where the cash value is in excess of [\$500] $\$ 1,000$ if such prize is the result of a carryover of a drawing or drawings which resulted from the winning number in such drawing or drawings not being among the eligible entrants in such drawings. Nothing contained herein shall authorize the prize [limitations] limitation as contained in [subsections (a) and (b) ] subsection (a) to be exceeded as a result of a failure to conduct a drawing on an operating day during which chances were sold for a daily drawing or for a daily drawing for which chances were sold in excess of $\$ 1$ or for which more than one chance was sold to an eligible participant.
(g) Daily drawing and weekly drawing exception.--When a daily drawing or weekly drawing is set up or conducted in such a manner as to pay out or award $100 \%$ of the gross revenues generated from such drawing, the limitations contained in subsection (b) shall not apply.
(h) Limit on weekly drawings.--Weekly drawings shall be governed by the prize limitations contained in subsection (b). The prize limitation contained in subsection (b) may be exceeded by a weekly drawing under the following circumstances: a weekly drawing may award a prize where the cash value is in excess of $[\$ 5,000] \$ 20,000$ if such prize is the result of a carryover of a drawing or drawings which resulted from the winning number or numbers in such drawing or drawings not being among the eligible
entrants in such drawings. Nothing contained in this act shall authorize the prize limitations as contained in subsection (b) to be exceeded as a result of a failure to conduct a drawing for a week during which chances were sold for a weekly drawing or for a weekly drawing for which chances were sold in excess of \$1. [An eligible organization shall not conduct weekly drawings during a period when a daily drawing is taking place.]

Section 4. The act is amended by adding a section to read: Section 5.1. Insured games.

Notwithstanding any provision of this act to the contrary, an eligible organization may conduct small games of chance using insured games. Insured games sold by a licensed distributor shall be backed by a valid insurance contract issued by an insurance company licensed to do business in this Commonwealth. Proof of the insurance contract must be provided to the department prior to the game being sold. The license of a distributor and an insurance company issuing a contract for an insured game may be suspended or revoked for failure to pay an award. For the purposes of this section, an insured game is a game in which the distributor or other licensed third party guarantees making the payment on a win of a jackpot.

Section 5. Sections 6 and 9 of the act, amended December 19, 1990 (P.L.812, No.195), are amended to read:

Section 6. Sales limited.
No person shall sell, offer for sale or furnish games of chance for use within this Commonwealth except to an eligible organization or distributor licensed under this act. No game of chance, other than a raffle, sold, offered for sale or furnished for use within this Commonwealth shall contain, permit, depict or designate a prize having a cash value in excess of [\$500]
$\$ 1,000$.
Section 9. Regulations of department.
(a) Authorization.--The department shall promulgate regulations to:
(1) Impose minimum standards and restrictions applicable to games of chance manufactured for sale in this Commonwealth, which may include standards and restrictions which specify the maximum number of chances available to be sold for any single game or prize and such other standards and restrictions as the department deems necessary for the purposes of this act. The department shall consider standards adopted by the National Association of Gambling Regulatory Agencies and other standards commonly accepted in the industry.
(2) Establish procedures by which manufacturers may register and distributors of games of chance may apply for licensure on forms which the department shall provide.
(3) Provide for the suspension or revocation of distribution licenses or manufacturer certificates for violations of this act or regulations of the department.
(3.1) Provide for the electronic monitoring and reporting of tickets and proceeds from games of chance through the use of electronic monitoring devices.
(4) Carry out other provisions of this act.
(b) Limitation on recordkeeping requirements.--[This] Except as otherwise authorized under subsection (a) (3.1), this section shall not be construed to authorize the department to promulgate regulations providing for recordkeeping requirements for eligible organizations which require unreasonable or unnecessary information or a repetitious listing of information. The
department shall strive to keep such recordkeeping requirements from being an undue hardship or burden on eligible organizations. Under no circumstances shall the department require the retention of records for a period in excess of two years. Each eligible organization shall report to the department prizes awarded as required by section 335 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

Section 6. Section $10(\mathrm{~b})$, (d) and (e) of the act, amended December 19, 1990 (P.L. 812, No.195) and October 18, 2000 (P.L.602, No.79), are amended and the section is amended by adding subsections to read:

Section 10. Licensing of eligible organizations to conduct games of chance.

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(b) Issuance and fees.--The licensing authority shall license, upon application, within 30 days any eligible organization meeting the requirements for licensure contained in this act to conduct and operate games of chance at such locations within the county or in such manner as stated on the application as limited by subsection (b.1). The license fee to be charged to each eligible organization shall be $\$ 100$, except for limited occasion licenses which shall be $\$ 10$. Licenses shall be renewable annually upon the anniversary of the date of issue. For licensed establishments the license fee shall be $\$ 500$.
(d) Operation.--Each licensed eligible organization shall comply with the following restrictions and rules governing the operation of games of chance:
(1) No person under 18 years of age shall be permitted to operate or play games of chance.
(2) No eligible organization shall permit any person who has been convicted of a felony in a Federal or State court within the past five years or has been convicted in a Federal or State court within the past ten years of a violation of the act of July 10, 1981 (P.L.214, No.67), known as the Bingo Law, or of this act to manage, set up, supervise or participate in the operation of games of chance.
(3) No eligible organization shall pay any compensation to any person for conducting any games of chance. Games of chance may only be conducted by managers, officers, directors, bar personnel and bona fide members of the eligible organization.
(4) Games shall be conducted only on the licensed premises or as otherwise provided by this act.
(5) The eligible organization shall not lease such premises under either an oral or a written agreement for a rental which is determined by either the amount of receipts realized from the playing of games of chance or the number of people attending, except that an eligible organization may lease a facility for a banquet where a per head charge is applied in connection with the serving of a meal. An eligible organization shall not lease such premises from any person who has been convicted of a violation of this act within the past ten years.
(6) Games, other than raffles, daily drawings and weekly drawings, shall be purchased only from manufacturers and distributors approved by the department.
(7) [No] Except as provided in paragraph (7.1), no licensed eligible organization shall permit its premises to be used for small games of chance by another licensed
eligible organization at the same time that it is conducting small games of chance on the premises. When a licensed eligible organization is permitting another licensed eligible organization to use its premises for purposes of small games of chance, it must cease the operation of its own small games of chance during the period that the other licensed eligible organization is conducting its games on the premises.
(7.1) A licensed eligible organization may sell on its licensed premises the raffle tickets of another licensed eligible organization that has been issued a limited occasion license under subsection (b.3).
(8) Raffle tickets may be sold off the licensed premise in any municipality in this Commonwealth which has adopted the provisions of this act by an affirmative vote in a municipal referendum. A licensed eligible organization which plans to sell raffle tickets in a municipality located in a county other than the county in which the eligible organization is licensed must notify that county's district attorney and licensing authority as to the location and the dates that the eligible organization plans to sell raffle tickets.

## (9) The eligible organization shall keep a bank account

 to hold the proceeds of games of chance, which shall be separate from all other funds belonging to the eligible organization. Account records shall show all expenditures and income and shall be retained by the eligible organization for at least two years.(e) Application for license.--Each eligible organization shall apply to the licensing authority for a license on a form to be prescribed by the Secretary of Revenue. The form shall
contain an affidavit to be affirmed by the executive officer or secretary of the eligible organization stating that:
(1) No person under 18 years of age will be permitted by the eligible organization to operate or play games of chance.
(2) The facility in which the games of chance are to be played has adequate means of ingress and egress and adequate sanitary facilities available in the area.
(3) The eligible organization is not leasing such premises from the owner thereof under an oral agreement, nor is it leasing such premises from the owner thereof under a written agreement at a rental which is determined by the amount of receipts realized from the playing of games of chance or by the number of people attending, except that an eligible organization may lease a facility for a banquet where a per head charge is applied in connection with the serving of a meal.
(4) The eligible organization has complied with the annual financial report filing.
(5) The eligible organization has a separate bank account to hold all proceeds of games of chance.
(6) The eligible organization has complied with the applicable games of chance education requirements. (e.1) Additional application components.--As part of the initial or renewal application filed under subsection (e), each eligible organization shall file an annual report with the licensing authority. The following shall apply:
(1) The first annual report required under this paragraph shall contain information for the $12-m o n t h$ period ending at least 60 days, but not more than 90 days, prior to the submission of the application. Subsequent annual reports
shall contain information for the most recent 12 -month period ending in the same month as the initial report.
(2) The annual report shall detail gross receipts from the conduct of games of chance, the expenses related to the conduct of the games of chance, the prizes paid out for games of chance and the details as to how the proceeds from games of chance were used or disbursed by the eligible organization.
(3) The annual report shall be prepared on a one-page form to be designed by the department. Additional schedules shall be included, if necessary, to provide specific details on the use or disbursement of the net proceeds from games of chance by the eligible organization.
(4) A copy of the annual report shall be filed with the application to renew the liquor license of an eligible organization. * * *
(h) Background checks.--Each application shall include the results of a criminal history record information check obtained from the Pennsylvania State Police, as defined in 18 Pa.C.S. S 9102 (relating to definitions) and permitted by 18 Pa.C.S. § 9121(b) (relating to general regulations), for the executive officer or secretary of the eligible organization making the application and all other responsible persons listed on the application.

Section 7. The act is amended by adding sections to read: Section 11.1. Licensed establishment application.

In addition to any other eligibility and application requirements applicable to eligible organizations, a licensed establishment shall demonstrate the following as part of its
application for a license to conduct small games of chance:
(1) That it possesses a valid liquor, malt or brewed beverage license under Article IV of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, and that such license is in good standing.
(2) That it is located in a municipality in which small games of chance are permitted under this act.
(3) That it possesses tax clearance from the department and the Department of Labor and Industry in the same manner as required under section 470 of the Liquor Code.

Section 11.2. Licensed establishment monthly assessment.
(a) Rate.--The department shall determine and each licensed establishment shall pay a monthly assessment rate of $30 \%$ of its gross games of chance revenue from the conduct of small games of chance at the licensed establishment.
(b) Deposit.--The monthly assessment owed by each licensed establishment shall be deposited in the General Fund. Section 11.3. Licensed establishment public interest assessment.
(a) Contribution.--The department shall determine and verify that each licensed establishment conducting small games of chance shall contribute, monthly, $20 \%$ of its gross games of chance revenue from the conduct of small games of chance at the licensed establishment to a charitable organization to be used exclusively for a public interest purpose.
(b) Accounting.--A licensed establishment shall provide a monthly accounting to the department indicating the total amount of gross games of chance revenue received by the licensed establishment and the total amount contributed to charitable organizations. The licensed establishment shall identify the
charitable organization and the public interest purpose for which the monthly contribution is allocated.

Section 11.4. Additional licensed establishment assessment fee.
In addition to assessment in section 11.2, a licensed establishment shall pay a monthly assessment rate of $2 \%$ of the gross games of chance revenue from the conduct of small games of chance at the licensed establishment. This amount shall be divided equally between the department and the Bureau of Liquor Control Enforcement of the Pennsylvania State Police for administrative and enforcement costs.

Section 8. Section $12(\mathrm{a})$ of the act is amended by adding a paragraph to read:

Section 12. Revocation of licenses.
(a) Grounds.--The licensing authority shall revoke or refuse to renew the license of any eligible organization whenever the district attorney finds upon complaint and investigation that: * * *
(13) The eligible organization has failed to keep and maintain the records required under this act for a period of two years.

Section 9. Section $13(\mathrm{a})$ of the act is amended to read: Section 13. Enforcement.
(a) [District] Attorney General and district attorney.--The Attorney General and district attorney shall have concurrent jurisdiction and the Pennsylvania State Police shall have the independent authority to investigate alleged violations of this act. If the Attorney General or district attorney finds probable cause to believe that a violation has occurred, he may file a complaint against the alleged violator in the court of common
pleas of said county, except in counties of the first class where the complaint may be filed in the municipal court. In addition, the Attorney General or district attorney shall prosecute said complaint in the manner provided by law.

Section 10. Section 17 of the act is amended by adding a subsection to read:

Section 17. Penalties.

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(f) Fines for license revocation or refusal to renew license.--In addition to any other penalty provided by law, an eligible organization whose license has been revoked or not renewed on any of the grounds enumerated in section $12(a)$ shall be subject to the following fines:
(1) A fine of $\$ 500$ for a first occurrence.
(2) A fine of $\$ 1,000$ for a second occurrence.
(3) A fine of $\$ 2,500$ for a third or subsequent
occurrence.
Section 11. Section 15 of the act, amended December 19, 1990 (P.L.812, No.195), is amended to read:

Section 15. Advertising.
[It shall be unlawful for any eligible organization or person to] Any eligible organization or person may advertise the prizes or their dollar value to be awarded in games of chance, provided that [prizes may be identified on raffle tickets. Notwithstanding the prohibition of advertising contained within this section, an eligible organization may advertise prizes and values thereof in periodic publications which are limited in their circulation to members of the eligible organization.] such advertisements shall contain the date, time, location, whether
cash or merchandise prizes will be awarded and the name of the eligible organization licensed to conduct games of chance and the name of the person who conducts the games of chance.

Section 12. The act is amended by adding a section to read: Section 16.1. Transfer from General Fund to State Lottery Fund. If, on June 15, 2011, and June 15 of each vear thereafter, the secretary determines that a decrease in the revenue deposited in that fiscal year in the State Lottery Fund is due to the play of small games of chance in retail licensed establishments in this Commonwealth, the secretary shall certify the amount of the decrease due to such activity. The secretary's determination shall be based upon an audit or other report of an independent expert regarding the decrease. A sum equal to the amount of the decrease shall be deducted from the amount to be distributed to the General Fund under section $11.2(b)$ in the next fiscal year and deposited in the State Lottery Fund. The cost of the audit or independent report may be included in the costs of the department to be funded from money in the account under section $11.2(b)$.

Section 13. This act shall apply as follows:
(1) The amendment or addition of section 10 (e) (4) and (5), (e.1)(1) and (h) of the act shall apply to applications filed more than 60 days after the effective date of this section.
(2) The amendment or addition of section 10 (e) (6) and (e.1)(2) of the act shall apply to applications filed more than one year after the effective date of this section. Section 14. This act shall take effect as follows:
(1) The following provisions shall take effect immediately:
(i) The amendment or addition of section $10(\mathrm{~b}),(\mathrm{e})$, (e.1) and (h) of the act.
(ii) Section 13 of this act.
(iii) This section.
(2) The remainder of this act shall take effect in 60 days.

