

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 731 Session of 2011

INTRODUCED BY ERICKSON, STACK, SOLOBAY, D. WHITE, FONTANA,
RAFFERTY, BREWSTER, CORMAN, LEACH, PIPPY, TOMLINSON, ALLOWAY,
M. WHITE, WOZNIAC AND YAW, MARCH 2, 2011

REFERRED TO FINANCE, MARCH 2, 2011

AN ACT

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

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. The definitions of "daily drawing," "eligible
20 organizations" and "games of chance" in section 3 of the act of
21 December 19, 1988 (P.L.1262, No.156), known as the Local Option
22 Small Games of Chance Act, amended December 19, 1990 (P.L.812,
23 No.195) and October 18, 2000 (P.L.602, No.79), are amended and
24 the section is amended by adding definitions to read:

1 Section 3. Definitions.

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

5 * * *

6 "Daily drawing." A game in which a bona fide member selects
7 or is assigned a number for a chance at a prize with the winner
8 determined by [a] random drawing to take place on the eligible
9 organization's premises [during the same operating day]. The
10 term includes games commonly known as "member sign-in lotteries"
11 and "half-and-half lotteries." Nothing in this act shall be
12 construed to prohibit the carrying over of a jackpot where the
13 winning number has not been entered in the game on a particular
14 operating day. Daily drawing winners may be determined with the
15 aid of a passive selection device or reference to drawings
16 conducted by the department pursuant to the act of August 26,
17 1971 (P.L.351, No.91), known as the State Lottery Law. Daily
18 drawing chances may not be sold for an amount in excess of \$1,
19 and no more than one chance per individual may be sold [to an
20 individual during the same operating day.] per drawing. Nothing
21 in this definition shall restrict an eligible organization from
22 conducting more than one drawing per day.

23 * * *

24 "Electronic monitoring device." An electromechanical device,
25 electrical device or machine that satisfies the following
26 requirements:

27 (1) Is a contrivance which records time of sale of
28 particular units referred to as games of chance.

29 (2) Is a device that is able to generate reports for
30 auditing purposes.

1 (3) Allows for financial auditing reports to be sent
2 electronically to a State agency.

3 "Eligible organizations." Includes qualifying nonprofit
4 charitable, religious, fraternal and veterans organizations,
5 clubs [and], licensed establishments, civic and service
6 associations as defined by this act. In order to qualify as an
7 eligible organization for purposes of this act, an organization
8 shall have been in existence and fulfilling its stated purposes
9 for one year prior to the date of application for a license.

10 * * *

11 "Games of chance." Punchboards, daily drawings, weekly
12 drawings, monthly drawings, raffles and pull-tabs, as defined in
13 this act, provided that no such game shall be played by or with
14 the assistance of any mechanical or electrical devices or media
15 other than a dispensing machine or passive selection device and
16 further provided that the particular chance taken by any person
17 in any such game shall not be made contingent upon any other
18 occurrence or the winning of any other contest, but shall be
19 determined solely at the discretion of the purchaser. This
20 definition shall not be construed to authorize any other form of
21 gambling currently prohibited under any provision of Title 18 of
22 the Pennsylvania Consolidated Statutes (relating to crimes and
23 offenses). Nothing in this act shall be construed to authorize
24 games commonly known as "slot machines" or "video poker."

25 "Gross games of chance revenue." The total of cash wagers
26 received by a licensed establishment minus the total of:

27 (1) Cash or cash equivalent paid out to patrons as a
28 result of playing a game of chance.

29 (2) Cash paid to purchase annuities to fund prizes
30 payable to patrons over a period of time as a result of

1 playing a game of chance.

2 (3) Any personal property distributed to a patron as a
3 result of playing a game of chance. This does not include
4 travel expenses, food, refreshments, lodging or services.

5 The term does not include counterfeit money or tokens, coins or
6 currency of other countries which are received while playing a
7 game of chance, except to the extent that they are readily
8 convertible to United States currency, cash taken in fraudulent
9 acts perpetrated against a licensed establishment for which the
10 establishment is not reimbursed.

11 * * *

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

19 * * *

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

22 Section 4. Games of chance permitted.

23 Every eligible organization to which a license has been
24 issued under the provisions of this act may conduct games of
25 chance for the purpose of raising funds for general operating
26 expenses and for public interest purposes. [All proceeds of
27 games of chance shall be used exclusively for public interest
28 purposes or for the purchase of games of chance as permitted by
29 this act.] No more than fifty percent of proceeds may be used
30 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)

1 to be exceeded as a result of a failure to conduct a drawing for
2 a week during which chances were sold for a weekly drawing or
3 for a weekly drawing for which chances were sold in excess of
4 \$1. [An eligible organization shall not conduct weekly drawings
5 during a period when a daily drawing is taking place.]

6 Section 4. The act is amended by adding a section to read:

7 Section 5.1. Insured games.

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

20 Section 5. Sections 6 and 9 of the act, amended December 19,
21 1990 (P.L.812, No.195), are amended to read:

22 Section 6. Sales limited.

23 No person shall sell, offer for sale or furnish games of
24 chance for use within this Commonwealth except to an eligible
25 organization or distributor licensed under this act. No game of
26 chance, other than a raffle, sold, offered for sale or furnished
27 for use within this Commonwealth shall contain, permit, depict
28 or designate a prize having a cash value in excess of [\$500]
29 \$1,000.

30 Section 9. Regulations of department.

1 (a) Authorization.--The department shall promulgate
2 regulations to:

3 (1) Impose minimum standards and restrictions applicable
4 to games of chance manufactured for sale in this
5 Commonwealth, which may include standards and restrictions
6 which specify the maximum number of chances available to be
7 sold for any single game or prize and such other standards
8 and restrictions as the department deems necessary for the
9 purposes of this act. The department shall consider standards
10 adopted by the National Association of Gambling Regulatory
11 Agencies and other standards commonly accepted in the
12 industry.

13 (2) Establish procedures by which manufacturers may
14 register and distributors of games of chance may apply for
15 licensure on forms which the department shall provide.

16 (3) Provide for the suspension or revocation of
17 distribution licenses or manufacturer certificates for
18 violations of this act or regulations of the department.

19 (3.1) Provide for the electronic monitoring and
20 reporting of tickets and proceeds from games of chance
21 through the use of electronic monitoring devices.

22 (4) Carry out other provisions of this act.

23 (b) Limitation on recordkeeping requirements.--[This] Except
24 as otherwise authorized under subsection (a) (3.1), this section
25 shall not be construed to authorize the department to promulgate
26 regulations providing for recordkeeping requirements for
27 eligible organizations which require unreasonable or unnecessary
28 information or a repetitious listing of information. The
29 department shall strive to keep such recordkeeping requirements
30 from being an undue hardship or burden on eligible

1 organizations. Under no circumstances shall the department
2 require the retention of records for a period in excess of two
3 years. Each eligible organization shall report to the department
4 prizes awarded as required by section 335 of the act of March 4,
5 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

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

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

12 * * *

13 (b) Issuance and fees.--The licensing authority shall
14 license, upon application, within 30 days any eligible
15 organization meeting the requirements for licensure contained in
16 this act to conduct and operate games of chance at such
17 locations within the county or in such manner as stated on the
18 application as limited by subsection (b.1). The license fee to
19 be charged to each eligible organization shall be \$100, except
20 for limited occasion licenses which shall be \$10. Licenses shall
21 be renewable annually upon the anniversary of the date of issue.
22 For licensed establishments the license fee shall be \$500.

23 * * *

24 (d) Operation.--Each licensed eligible organization shall
25 comply with the following restrictions and rules governing the
26 operation of games of chance:

27 (1) No person under 18 years of age shall be permitted
28 to operate or play games of chance.

29 (2) No eligible organization shall permit any person who
30 has been convicted of a felony in a Federal or State court

1 within the past five years or has been convicted in a Federal
2 or State court within the past ten years of a violation of
3 the act of July 10, 1981 (P.L.214, No.67), known as the Bingo
4 Law, or of this act to manage, set up, supervise or
5 participate in the operation of games of chance.

6 (3) No eligible organization shall pay any compensation
7 to any person for conducting any games of chance. Games of
8 chance may only be conducted by managers, officers,
9 directors, bar personnel and bona fide members of the
10 eligible organization.

11 (4) Games shall be conducted only on the licensed
12 premises or as otherwise provided by this act.

13 (5) The eligible organization shall not lease such
14 premises under either an oral or a written agreement for a
15 rental which is determined by either the amount of receipts
16 realized from the playing of games of chance or the number of
17 people attending, except that an eligible organization may
18 lease a facility for a banquet where a per head charge is
19 applied in connection with the serving of a meal. An eligible
20 organization shall not lease such premises from any person
21 who has been convicted of a violation of this act within the
22 past ten years.

23 (6) Games, other than raffles, daily drawings and weekly
24 drawings, shall be purchased only from manufacturers and
25 distributors approved by the department.

26 (7) [No] Except as provided in paragraph (7.1), no
27 licensed eligible organization shall permit its premises to
28 be used for small games of chance by another licensed
29 eligible organization at the same time that it is conducting
30 small games of chance on the premises. When a licensed

1 eligible organization is permitting another licensed eligible
2 organization to use its premises for purposes of small games
3 of chance, it must cease the operation of its own small games
4 of chance during the period that the other licensed eligible
5 organization is conducting its games on the premises.

6 (7.1) A licensed eligible organization may sell on its
7 licensed premises the raffle tickets of another licensed
8 eligible organization that has been issued a limited occasion
9 license under subsection (b.3).

10 (8) Raffle tickets may be sold off the licensed premise
11 in any municipality in this Commonwealth which has adopted
12 the provisions of this act by an affirmative vote in a
13 municipal referendum. A licensed eligible organization which
14 plans to sell raffle tickets in a municipality located in a
15 county other than the county in which the eligible
16 organization is licensed must notify that county's district
17 attorney and licensing authority as to the location and the
18 dates that the eligible organization plans to sell raffle
19 tickets.

20 (9) The eligible organization shall keep a bank account
21 to hold the proceeds of games of chance, which shall be
22 separate from all other funds belonging to the eligible
23 organization. Account records shall show all expenditures and
24 income and shall be retained by the eligible organization for
25 at least two years.

26 (e) Application for license.--Each eligible organization
27 shall apply to the licensing authority for a license on a form
28 to be prescribed by the Secretary of Revenue. The form shall
29 contain an affidavit to be affirmed by the executive officer or
30 secretary of the eligible organization stating that:

1 (1) No person under 18 years of age will be permitted by
2 the eligible organization to operate or play games of chance.

3 (2) The facility in which the games of chance are to be
4 played has adequate means of ingress and egress and adequate
5 sanitary facilities available in the area.

6 (3) The eligible organization is not leasing such
7 premises from the owner thereof under an oral agreement, nor
8 is it leasing such premises from the owner thereof under a
9 written agreement at a rental which is determined by the
10 amount of receipts realized from the playing of games of
11 chance or by the number of people attending, except that an
12 eligible organization may lease a facility for a banquet
13 where a per head charge is applied in connection with the
14 serving of a meal.

15 (4) The eligible organization has complied with the
16 annual financial report filing.

17 (5) The eligible organization has a separate bank
18 account to hold all proceeds of games of chance.

19 (6) The eligible organization has complied with the
20 applicable games of chance education requirements.

21 (e.1) Additional application components.--As part of the
22 initial or renewal application filed under subsection (e), each
23 eligible organization shall file an annual report with the
24 licensing authority. The following shall apply:

25 (1) The first annual report required under this
26 paragraph shall contain information for the 12-month period
27 ending at least 60 days, but not more than 90 days, prior to
28 the submission of the application. Subsequent annual reports
29 shall contain information for the most recent 12-month period
30 ending in the same month as the initial report.

1 (2) The annual report shall detail gross receipts from
2 the conduct of games of chance, the expenses related to the
3 conduct of the games of chance, the prizes paid out for games
4 of chance and the details as to how the proceeds from games
5 of chance were used or disbursed by the eligible
6 organization.

7 (3) The annual report shall be prepared on a one-page
8 form to be designed by the department. Additional schedules
9 shall be included, if necessary, to provide specific details
10 on the use or disbursement of the net proceeds from games of
11 chance by the eligible organization.

12 (4) A copy of the annual report shall be filed with the
13 application to renew the liquor license of an eligible
14 organization.

15 * * *

16 (h) Background checks.--Each application shall include the
17 results of a criminal history record information check obtained
18 from the Pennsylvania State Police, as defined in 18 Pa.C.S. §
19 9102 (relating to definitions) and permitted by 18 Pa.C.S. §
20 9121(b) (relating to general regulations), for the executive
21 officer or secretary of the eligible organization making the
22 application and all other responsible persons listed on the
23 application.

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

26 In addition to any other eligibility and application
27 requirements applicable to eligible organizations, a licensed
28 establishment shall demonstrate the following as part of its
29 application for a license to conduct small games of chance:

30 (1) That it possesses a valid liquor, malt or brewed

1 beverage license under Article IV of the act of April 12,
2 1951 (P.L.90, No.21), known as the Liquor Code, and that such
3 license is in good standing.

4 (2) That it is located in a municipality in which small
5 games of chance are permitted under this act.

6 (3) That it possesses tax clearance from the department
7 and the Department of Labor and Industry in the same manner
8 as required under section 470 of the Liquor Code.

9 Section 11.2. Licensed establishment monthly assessment.

10 (a) Rate.--The department shall determine and each licensed
11 establishment shall pay a monthly assessment rate of 30% of its
12 gross games of chance revenue from the conduct of small games of
13 chance at the licensed establishment.

14 (b) Deposit.--The monthly assessment owed by each licensed
15 establishment shall be deposited in the General Fund.

16 Section 11.3. Licensed establishment public interest
17 assessment.

18 (a) Contribution.--The department shall determine and verify
19 that each licensed establishment conducting small games of
20 chance shall contribute, monthly, 20% of its gross games of
21 chance revenue from the conduct of small games of chance at the
22 licensed establishment to a charitable organization to be used
23 exclusively for a public interest purpose.

24 (b) Accounting.--A licensed establishment shall provide a
25 monthly accounting to the department indicating the total amount
26 of gross games of chance revenue received by the licensed
27 establishment and the total amount contributed to charitable
28 organizations. The licensed establishment shall identify the
29 charitable organization and the public interest purpose for
30 which the monthly contribution is allocated.

1 Section 11.4. Additional licensed establishment assessment fee.

2 In addition to assessment in section 11.2, a licensed
3 establishment shall pay a monthly assessment rate of 2% of the
4 gross games of chance revenue from the conduct of small games of
5 chance at the licensed establishment. This amount shall be
6 divided equally between the department and the Bureau of Liquor
7 Control Enforcement of the Pennsylvania State Police for
8 administrative and enforcement costs.

9 Section 8. Section 12(a) of the act is amended by adding a
10 paragraph to read:

11 Section 12. Revocation of licenses.

12 (a) Grounds.--The licensing authority shall revoke or refuse
13 to renew the license of any eligible organization whenever the
14 district attorney finds upon complaint and investigation that:

15 * * *

16 (13) The eligible organization has failed to keep and
17 maintain the records required under this act for a period of
18 two years.

19 * * *

20 Section 9. Section 13(a) of the act is amended to read:

21 Section 13. Enforcement.

22 (a) [District] Attorney General and district attorney.--The
23 Attorney General and district attorney shall have concurrent
24 jurisdiction and the Pennsylvania State Police shall have the
25 independent authority to investigate alleged violations of this
26 act. If the Attorney General or district attorney finds probable
27 cause to believe that a violation has occurred, he may file a
28 complaint against the alleged violator in the court of common
29 pleas of said county, except in counties of the first class
30 where the complaint may be filed in the municipal court. In

1 addition, the Attorney General or district attorney shall
2 prosecute said complaint in the manner provided by law.

3 * * *

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

6 Section 17. Penalties.

7 * * *

8 (f) Fines for license revocation or refusal to renew
9 license.--In addition to any other penalty provided by law, an
10 eligible organization whose license has been revoked or not
11 renewed on any of the grounds enumerated in section 12(a) shall
12 be subject to the following fines:

13 (1) A fine of \$500 for a first occurrence.

14 (2) A fine of \$1,000 for a second occurrence.

15 (3) A fine of \$2,500 for a third or subsequent
16 occurrence.

17 Section 11. Section 15 of the act, amended December 19, 1990
18 (P.L.812, No.195), is amended to read:

19 Section 15. Advertising.

20 [It shall be unlawful for any eligible organization or person
21 to] Any eligible organization or person may advertise the prizes
22 or their dollar value to be awarded in games of chance, provided
23 that [prizes may be identified on raffle tickets.

24 Notwithstanding the prohibition of advertising contained within
25 this section, an eligible organization may advertise prizes and
26 values thereof in periodic publications which are limited in
27 their circulation to members of the eligible organization.] such
28 advertisements shall contain the date, time, location, whether
29 cash or merchandise prizes will be awarded and the name of the
30 eligible organization licensed to conduct games of chance and

1 the name of the person who conducts the games of chance.

2 Section 12. The act is amended by adding a section to read:

3 Section 16.1. Transfer from General Fund to State Lottery Fund.

4 If, on June 15, 2011, and June 15 of each year thereafter,

5 the secretary determines that a decrease in the revenue

6 deposited in that fiscal year in the State Lottery Fund is due

7 to the play of small games of chance in retail licensed

8 establishments in this Commonwealth, the secretary shall certify

9 the amount of the decrease due to such activity. The secretary's

10 determination shall be based upon an audit or other report of an

11 independent expert regarding the decrease. A sum equal to the

12 amount of the decrease shall be deducted from the amount to be

13 distributed to the General Fund under section 11.2(b) in the

14 next fiscal year and deposited in the State Lottery Fund. The

15 cost of the audit or independent report may be included in the

16 costs of the department to be funded from money in the account

17 under section 11.2(b).

18 Section 13. This act shall apply as follows:

19 (1) The amendment or addition of section 10(e)(4) and
20 (5), (e.1)(1) and (h) of the act shall apply to applications
21 filed more than 60 days after the effective date of this
22 section.

23 (2) The amendment or addition of section 10(e)(6) and
24 (e.1)(2) of the act shall apply to applications filed more
25 than one year after the effective date of this section.

26 Section 14. This act shall take effect as follows:

27 (1) The following provisions shall take effect
28 immediately:

29 (i) The amendment or addition of section 10(b), (e),
30 (e.1) and (h) of the act.

1 (ii) Section 13 of this act.

2 (iii) This section.

3 (2) The remainder of this act shall take effect in 60
4 days.