

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1891 Session of
2015

INTRODUCED BY PAYNE, KOTIK, MOUL, DIAMOND, GROVE, PICKETT AND
THOMAS, MARCH 14, 2016

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, MARCH 14, 2016

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," in preliminary
9 provisions, further providing for definitions; in games of
10 chance, further providing for distributor licenses, for major
11 league sports drawing, for registration of manufacturers, for
12 regulations of department and for licensing of eligible
13 organizations and providing for authorized small games; in
14 club licensees, further providing for club licensee, for
15 distribution of proceeds and for records; in enforcement,
16 further providing for revocation of licenses and for
17 enforcement; and providing for powers and duties of the
18 Pennsylvania Gaming Control Board.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 Section 1. The definitions of "games of chance" and "passive
22 selection device" in section 103 of the act of December 19, 1988
23 (P.L.1262, No.156), known as the Local Option Small Games of
24 Chance Act, amended December 19, 1990 (P.L.812, No.195),
25 February 2, 2012 (P.L.7, No.2), November 27, 2013 (P.L.1045,
26 No.90) and November 27, 2013 (P.L.1062, No.92), are amended and

1 the section is amended by adding definitions to read:

2 Section 103. Definitions.

3 The following words and phrases when used in this act shall,
4 except as provided under section 902, have the meanings given to
5 them in this section unless the context clearly indicates
6 otherwise:

7 * * *

8 "Authorized small game." A small gambling game authorized by
9 the board under section 309.

10 * * *

11 "Board." The Pennsylvania Gaming Control Board.

12 * * *

13 "Games of chance." Punchboards, daily drawings, weekly
14 drawings, 50/50 drawings, raffles, tavern games, pools, race
15 night games, authorized small games and pull-tabs, as defined in
16 this act, provided that no such game shall be played by or with
17 the assistance of any mechanical or electrical devices or media
18 other than a dispensing machine or passive selection device and
19 further provided that the particular chance taken by any person
20 in any such game shall not be made contingent upon any other
21 occurrence or the winning of any other contest, but shall be
22 determined solely at the discretion of the purchaser. This
23 definition shall not be construed to authorize any other form of
24 gambling currently prohibited under any provision of 18 Pa.C.S.
25 (relating to crimes and offenses) or authorized under 4 Pa.C.S.
26 (relating to amusements). Nothing in this act shall be construed
27 to authorize games commonly known as "slot machines" or "video
28 poker" or other games regulated by the Pennsylvania Gaming
29 Control Board under 4 Pa.C.S.

30 * * *

1 "Passive selection device." A device which is used to hold
2 or denote the universe of possible winning numbers or entrants
3 in a daily drawing [or], raffle or authorized small game. Such a
4 device may not have the capability of being utilized to conduct
5 or aid in the conducting of unauthorized or illegal forms of
6 gambling.

7 * * *

8 Section 2. Section 304 of the act, amended or added February
9 2, 2012 (P.L.7, No.2), November 27, 2013 (P.L.1045, No.90) and
10 November 13, 2013 (P.L.1062, No.92), is amended to read:

11 Section 304. Distributor licenses.

12 (a) License required.--No person shall sell, offer for sale
13 or furnish games of chance to eligible organizations licensed
14 under this chapter or licensed under Chapter 9 unless such
15 person shall have obtained a distributor license as provided in
16 this section.

17 (b) Application.--An applicant for the grant or renewal of a
18 distributor license issued pursuant to this section shall
19 provide to the [department] board, upon the form prescribed, all
20 of the following:

21 (1) The applicant's State sales tax number.

22 (2) The applicant's State corporate tax number.

23 (3) The applicant's State employer withholding tax
24 number.

25 (4) The applicant's unemployment compensation account
26 number.

27 (5) A statement that:

28 (i) all State tax reports have been filed and all
29 State taxes paid;

30 (ii) all State taxes are subject to a timely

1 administrative or judicial appeal; or

2 (iii) all State taxes are subject to a duly approved
3 deferred payment plan.

4 (6) The names and business addresses of all owners,
5 officers, directors, partners and sales personnel.

6 (c) Waiver of confidentiality.--An applicant for the grant
7 or renewal of a distributor license issued pursuant to this
8 section shall, by the filing of an application insofar as it
9 relates to the [department] board, waive any confidentiality
10 with respect to State tax information in the possession of the
11 department, the Office of Attorney General or the Department of
12 Labor and Industry regarding that applicant, regardless of the
13 source of that information, and shall consent to the providing
14 of that information to the [department] board by the Office of
15 Attorney General, department or the Department of Labor and
16 Industry.

17 (c.1) Background.--The [department] board shall conduct and
18 annually update a criminal history record check on each
19 individual listed under subsection (b) (6).

20 (d) Review of tax status.--Upon receipt of any application
21 for the grant or renewal of a distributor license issued
22 pursuant to this section, the [department] board shall review
23 the State tax status of the applicant. The [department] board
24 shall request State tax information regarding the applicant from
25 the Office of Attorney General, department or the Department of
26 Labor and Industry and that information shall be provided.

27 (e) Limitation on approval.--The [department] board shall
28 not approve any application for the grant or renewal of a
29 distributor license issued pursuant to this section where the
30 applicant has failed to:

1 (1) provide any of the information required by
2 subsection (b);

3 (2) file required State tax reports; or

4 (3) pay any State taxes not subject to a timely
5 administrative or judicial appeal or subject to a duly
6 authorized deferred payment plan.

7 (f) Records.--A distributor licensee shall keep such
8 records, reports and books as the [department] board shall
9 prescribe. Applicants shall be required to make such records,
10 reports and books available as required by the [department]
11 board pursuant to regulation.

12 (g) Ineligibility.--The [department] board shall not issue
13 or renew a distributor license for the sale of games of chance
14 to a person, including any corporation, firm or partnership
15 which has as an officer, director or other person in a
16 supervisory or management position, or employee eligible to make
17 sales on behalf of the distributor, who:

18 (1) has been convicted of a felony in a state or Federal
19 court within the past five years; or

20 (2) has been convicted within ten years of the date of
21 application in a state or Federal court of a violation of any
22 of the following:

23 (i) This act.

24 (ii) The act of July 10, 1981 (P.L.214, No.67),
25 known as the Bingo Law.

26 (iii) A gambling-related offense under 4 Pa.C.S.
27 (relating to amusements).

28 (iv) A gambling-related offense under 18 Pa.C.S.
29 (relating to crimes and offenses).

30 (v) A Federal or State law comparable to the

1 statutes listed under subparagraphs (i), (ii), (iii) and
2 (iv).

3 (h) License and renewal fees.--The fee for a distributor
4 license shall be \$2,000. Licenses shall be renewable on an
5 annual basis.

6 (i) Exception.--This section shall not apply to the
7 manufacture or distribution of raffle tickets, 50/50 drawings,
8 daily drawings, weekly drawings or pools.

9 Section 3. Section 304.1(h) of the act, added November 27,
10 2013 (P.L.1045, No.90), is amended to read:

11 Section 304.1. Major league sports drawing.

12 * * *

13 (h) Additional recordkeeping.--The [department] board may
14 require additional recordkeeping or accountability measures for
15 major league sports drawings.

16 Section 4. Section 305(a) of the act, amended October 24,
17 2012 (P.L.1462, No.184), is amended to read:

18 Section 305. Registration of manufacturers.

19 (a) Registration required.--No manufacturer of games of
20 chance shall sell any games of chance to any person unless the
21 manufacturer has registered with the [department] board and has
22 been issued a certificate of registration.

23 * * *

24 Section 5. Section 306 of the act, amended February 2, 2012
25 (P.L.7, No.2), October 24, 2012 (P.L.1462, No.184) and November
26 27, 2013 (P.L.1062, No.92), is amended to read:

27 Section 306. Regulations of [department] board.

28 (a) Authorization.--The [department] board shall promulgate
29 regulations to:

30 (1) Impose minimum standards and restrictions applicable

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

10 (2) Establish procedures by which manufacturers may
11 register and distributors of games of chance may apply for
12 licensure on forms which the [department] board shall
13 provide. Procedures shall include a requirement that
14 manufacturer and distributor applicants provide criminal
15 history record information obtained from the Pennsylvania
16 State Police under 18 Pa.C.S. § 9121(b) (relating to general
17 regulations) for each officer and manager of the
18 manufacturer's or distributor's organization and for any
19 other individual specified by the [department] board. As used
20 in this paragraph, the term "criminal history record
21 information" has the meaning given in 18 Pa.C.S. § 9102
22 (relating to definitions).

23 (3) Provide for the suspension or revocation of
24 distribution licenses or manufacturer certificates for
25 violations of this act or regulations of the [department]
26 board.

27 (3.1) Establish procedures to ensure that race night
28 games are secure, random and totally dependent upon chance.

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

30 (b) Limitation on recordkeeping requirements.--This section

1 shall not be construed to authorize the [department] board to
2 promulgate regulations providing for recordkeeping requirements
3 for licensed eligible organizations which require unreasonable
4 or unnecessary information or a repetitious listing of
5 information. The [department] board shall strive to keep such
6 recordkeeping requirements from being an undue hardship or
7 burden on licensed eligible organizations. Except as provided
8 under section 701(b), the [department] board may not require the
9 retention of records for a period in excess of two years. If an
10 individual prize is in excess of \$600, the record shall include
11 the name and address of the winner. An eligible organization
12 shall provide each winner with a receipt of the value of the
13 prize when the prize exceeds \$600.

14 (c) (Reserved).

15 Section 6. Section 307(d) (6), (e) introductory paragraph and
16 (f) of the act, amended February 2, 2012 (P.L.7, No.2), October
17 24, 2012 (P.L.1462, No.184) and November 27, 2013 (P.L.1062,
18 No.92), are amended to read:

19 Section 307. Licensing of eligible organizations.

20 * * *

21 (d) Operation.--Each licensed eligible organization shall be
22 prohibited from the following:

23 * * *

24 (6) Purchasing games of chance, other than raffles,
25 50/50 drawings, daily drawings and weekly drawings, from any
26 person other than a registered manufacturer or licensed
27 distributor approved by the [department] board.

28 * * *

29 (e) Application for license.--Each eligible organization
30 shall apply to the licensing authority for a license on a form

1 to be prescribed by the [Secretary of Revenue] board. For a club
2 license, the application and each renewal application shall
3 include the most recent annual report filed by the club licensee
4 under Chapter 5. The form shall contain an affidavit to be
5 affirmed by the executive officer or secretary of the eligible
6 organization stating that:

7 * * *

8 (f) List of licensees.--The licensing authority, on a
9 semiannual basis, shall send a copy of all licensees to the
10 [department] board.

11 * * *

12 Section 7. The act is amended by adding a section to read:
13 Section 309. Authorized small games.

14 (a) Application.--A registered manufacturer may apply to the
15 board, on a form and in a manner as the board may prescribe, for
16 approval of an authorized small game to be offered for sale and
17 operation in accordance with this act.

18 (b) Approval.--The board shall approve an application for an
19 authorized small game for sale and operation if the game
20 complies with the following:

21 (1) The game is designed for the purpose of raising
22 funds for public interest purposes.

23 (2) The maximum entry fee or cost for an individual to
24 play the game is \$10.

25 (3) The game is not to be played by or with the
26 assistance of any mechanical or electrical devices other than
27 a dispensing machine or passive selection device.

28 (4) The game complies with the Professional and Amateur
29 Sports Protection Act (Public Law 102-559, 28 U.S.C. § 3701
30 et seq.).

1 (c) Prohibitions.--No person may offer for sale or operate
2 an authorized small game until all of the following occur:

3 (1) The board approves the application for the
4 authorized small game.

5 (2) The board promulgates regulations as required by
6 this section.

7 (d) Regulations.--The board shall promulgate regulations
8 providing for the following:

9 (1) Manufacturing standards.

10 (2) Recordkeeping requirements.

11 (3) Rules for the play and operation of the authorized
12 small game.

13 (e) Exemption from review.--In order to facilitate the
14 prompt approval of authorized small games, regulations
15 promulgated by the board under this section shall be deemed
16 temporary regulations, which shall not be subject to:

17 (1) Sections 201, 202, 203, 204 and 205 of the act of
18 July 31, 1968 (P.L.769, No.240), referred to as the
19 Commonwealth Documents Law.

20 (2) Sections 204(b) and 301(10) of the act of October
21 15, 1980 (P.L.950, No.164), known as the Commonwealth
22 Attorneys Act.

23 (3) The act of June 25, 1982 (P.L.633, No.181), known as
24 the Regulatory Review Act.

25 (f) Expiration.--The authority provided to the board to
26 adopt temporary regulations under subsection (e) shall expire
27 three years from the effective date of this subsection.
28 Regulations adopted after that date shall be promulgated as
29 provided by law.

30 (g) Fees.--The board shall adopt a schedule establishing

1 fees to be accompanied by an application under subsection (a) to
2 cover costs incurred by the board for the approval of an
3 authorized small game.

4 Section 8. Section 501 of the act, amended or added February
5 2, 2012 (P.L.7, No.2) and November 27, 2013 (P.L.1045, No.90),
6 is amended to read:

7 Section 501. Club licensee.

8 (a) Report.--

9 (1) Beginning in 2014, a club licensee with proceeds in
10 excess of \$20,000 in a calendar year shall submit annual
11 reports to the [department] board for the preceding 12-month
12 period on a form and in a manner prescribed by the
13 [department] board.

14 (2) The report under paragraph (1) must be filed under
15 oath or affirmation of an authorized officer of the club
16 licensee and shall include all of the following information:

17 (i) The proceeds received by the club licensee from
18 each game of chance conducted, itemized by week.

19 (ii) The amount of prizes paid from all games of
20 chance, itemized by week.

21 (iii) Other costs incurred related to the conduct of
22 games of chance.

23 (iv) Verification and itemization of amounts
24 distributed for public interest.

25 (vii) Other information or documentation required by
26 the [department] board.

27 (b) Distribution.--The [department] board shall provide a
28 copy of the report to the Bureau of Liquor Control Enforcement.

29 (c) Posting.--The reports under subsection (a) shall be
30 published on the [department's] board's Internet website.

Section 9. Sections 502(a.1)(2) and 503 of the act, amended or added February 2, 2012 (P.L.7, No.2) and November 27, 2013 (P.L.1045, No.90), are amended to read:

Section 502. Distribution of proceeds.

* * *

(a.1) Amounts retained.--

* * *

(2) Amounts retained by a club licensee under subsection (a)(2) shall be expended within one year of the end of the calendar year in which the proceeds were obtained unless the club licensee notifies the [department] board that funds are being retained for a substantial public interest purchase or project.

* * *

Section 503. Records.

A club licensee shall maintain records as required by this act or by the [department] board, including invoices for games of chance purchased. Records necessary to enforce this act or to conduct random audits shall be made available to the Bureau of Liquor Control Enforcement, the [department] board or any other entity authorized to enforce or conduct audits under this act.

Section 10. Section 701(a)(10) of the act, amended February 2, 2012 (P.L.7, No.2), is amended to read:

Section 701. Revocation of licenses.

(a) Grounds.--The following shall be grounds for suspension, revocation or nonrenewal of a license:

* * *

(10) False or erroneous information was provided in the original application or in any information provided to the licensing authority or the [department] board in any report.

1 * * *

2 Section 11. Section 702(c) of the act, amended February 2,
3 2012 (P.L.7, No.2), November 27, 2013 (P.L.1045, No.90) and
4 November 27, 2013 (P.L.1062, No.92), is amended to read:

5 Section 702. Enforcement.

6 * * *

7 (c) Random audits.--The [department] board shall conduct
8 biennial random audits of 5% of all club licensees.

9 * * *

10 Section 12. The following transitional provisions apply:

11 (1) All personnel, allocations, appropriations,
12 equipment, files, records, contracts, agreements, obligations
13 and other materials which are used, employed or expended by
14 the Department of Revenue in conjunction with the functions
15 transferred by this act to the Pennsylvania Gaming Control
16 Board are hereby transferred to the Pennsylvania Gaming
17 Control Board as if these contracts, agreements and
18 obligations had been incurred or entered into by the
19 Pennsylvania Gaming Control Board in the first instance.

20 (2) The personnel, appropriations, equipment and other
21 items and material transferred by this section shall include
22 an appropriate portion of the general administrative,
23 overhead and supporting personnel, appropriations, equipment
24 and other material of the Department of Revenue.

25 (3) All personnel transferred under this section shall
26 retain any civil service employment status assigned to the
27 personnel.

28 (4) All orders, permits, regulations, decisions and
29 other actions of the Department of Revenue transferred by
30 this act shall remain in full force and effect until

1 modified, repealed, suspended, superseded or otherwise
2 changed by appropriate action of the Pennsylvania Gaming
3 Control Board.

4 Section 13. This act shall take effect as follows:

5 (1) The following provisions shall take effect
6 immediately:

7 (i) This section.

8 (ii) The addition of section 309(d), (e), (f) and (g)
9 of the act.

10 (2) The remainder of this act shall take effect July 1,
11 2017.