
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2133 Session of
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INTRODUCED BY WHEELAND, IRVIN, MILLARD, CIRESI, BURGOS, SANKEY,
KAIL, WARNER, PICKETT, GREGORY, SILVIS, FRITZ, HAMM, MERCURI,
STRUZZI, STURLA AND DIAMOND, DECEMBER 7, 2021

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, DECEMBER 7, 2021

AN ACT

1 Providing for skill video gaming; imposing duties on the
2 Department of Revenue; providing for issuance of licenses for
3 skill video gaming; imposing a tax and criminal and civil
4 penalties; and providing for zoning.

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30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 CHAPTER 1

3 PRELIMINARY PROVISIONS

4 Section 101. Short title.

5 This act shall be known and may be cited as the Skill Video
6 Gaming Act.

7 Section 102. Definitions.

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

11 "Applicant." A person which applies for permission to engage
12 in an act or activity that is regulated under the provisions of
13 this act.

14 "Bearer script." A ticket that is a printed receipt from a
15 skill video game system and is redeemable for cash equivalents.

16 "Camera system." A video camera system approved by the
17 department and provided by an operator to an establishment that
18 meets the specifications approved by the department.

19 "Cash." United States currency or coin.

20 "Cash equivalents." Instruments with a value equal to United
21 States currency or coin, including certified checks, cashier's
22 checks, money orders or other representations of value that the
23 department deems a cash equivalent.

24 "Controlling interest." As follows:

25 (1) For a publicly traded entity, the term means the
26 holding of sole voting rights under State law or corporate
27 articles or bylaws entitle the person to elect or appoint one
28 or more of the members of the board of directors or other
29 governing board or the holding of an ownership or beneficial
30 holding of 5% or more of the securities of the publicly

1 traded legal entity, unless the presumption of control or
2 ability to elect is rebutted by clear and convincing
3 evidence.

4 (2) For a privately held corporation, partnership,
5 limited liability company or other form of privately held
6 legal entity, the term means the holding of securities in the
7 legal entity, unless the presumption of control is rebutted
8 by clear and convincing evidence.

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

10 "Distributor." An entity licensed by the department that
11 sells, leases, offers or provides and distributes skill video
12 game systems to an operator for use or play in this
13 Commonwealth.

14 "Entity." A domestic or foreign:

- 15 (1) business corporation;
- 16 (2) nonprofit corporation;
- 17 (3) general partnership;
- 18 (4) limited partnership;
- 19 (5) limited liability company;
- 20 (6) unincorporated nonprofit association;
- 21 (7) professional association; or
- 22 (8) business trust, common law business trust or
23 statutory trust.

24 "Establishment." An entity licensed by the department that
25 permits an operator to place and operate skill video game
26 systems on the establishment's premises under this act.

27 "Gross revenue." The total of cash or cash equivalents
28 received by a skill video game system minus the total of cash or
29 cash equivalents paid out to players as a result of playing a
30 skill video game system. The term does not include counterfeit

1 cash or cash taken in a fraudulent act perpetrated against an
2 operator for which the operator is not reimbursed.

3 "Independent testing laboratory." A nongovernmental entity
4 engaged in the business of examining skill video game software
5 and capable of providing the certification specified in Chapter
6 7.

7 "Initial license." A license issued by the department to an
8 approved applicant under this act.

9 "IRC of 1986." The Internal Revenue Code of 1986 (Public Law
10 99-514, 26 U.S.C. § 1 et seq.).

11 "Net profits." The gross revenue after applicable taxes are
12 paid to the department.

13 "Operator." An entity licensed by the department to operate
14 a skill video game system by:

15 (1) Purchasing or leasing skill video game systems from
16 a licensed skill video game system distributor.

17 (2) Providing skill video game systems to licensed
18 establishments.

19 (3) Providing onsite collection of skill video game
20 system revenue and skill video game system data reporting as
21 required by this act.

22 "Payout." The payment of cash or cash equivalent to player
23 as a result of playing a skill video game system.

24 "Person." Includes a corporation, partnership, limited
25 liability company, business trust, other association, government
26 entity, other than the Commonwealth, estate, trust, foundation
27 or natural person.

28 "Player." An individual who is at least 18 years of age when
29 the individual plays a skill video game system.

30 "Principal." Any of the following:

1 (1) An officer.

2 (2) A director.

3 (3) A person who directly holds a beneficial interest in
4 or ownership of the securities of an applicant or licensee.

5 (4) A person who has a controlling interest in an
6 applicant or licensee or has the ability to elect a majority
7 of the board of directors of a licensee or to otherwise
8 control a licensee, lender or other licensed financial
9 institution of an applicant or licensee, other than a bank or
10 lending institution which makes a loan or holds a mortgage or
11 other lien acquired in the ordinary course of business,
12 underwriter of an applicant or licensee

13 (5) A person deemed to be a principal by the department.

14 "Program." The program to regulate the distribution, sale,
15 transportation, storage and use of skill video game systems
16 established under Chapter 3.

17 "Provisional license." A license issued under section 2503.

18 "Registration information." The information required on the
19 registration form provided by the department.

20 "Skill video game." A game played on skill video game
21 software that meets the qualifications specified in Chapters 5
22 and 7 and has been licensed by the department as part of a skill
23 video game system.

24 "Skill video game placement agreement." An agreement entered
25 into by a distributor with an operator or an operator with an
26 establishment for the placement, operation, service or
27 maintenance of skill video game terminals.

28 "Skill video game software." A distributor's proprietary
29 software program developed and designed for a skill video game
30 system as approved by the department.

1 "Skill video game system." A terminal that is equipped with
2 skill video game software connected to a terminal reporting
3 system.

4 "Terminal identification number." The unique number utilized
5 to identify and verify a licensed skill video game system.

6 "Terminal reporting system." A system provided by the
7 distributor and accessible by the department to which each skill
8 video game system communicates for the purpose of auditing
9 capacity and information retrieval of the details of a financial
10 event that occurs in the operation of a skill video game system,
11 including coin in, coin out, ticket in, ticket out and jackpots.

12 "Ticket redemption terminal." A terminal where a bearer
13 scrip from a skill video game system may be redeemed for cash
14 after a player has validated the player's age by utilizing a
15 state-issued driver's license or identification card.

16 CHAPTER 3

17 PROGRAM

18 Section 301. Regulation of skill video game systems.

19 (a) Establishment.--A program to regulate the distribution,
20 sale, transportation, storage and use of skill video game
21 systems is established. The program shall be implemented and
22 administered by the department. The department shall:

23 (1) Issue licenses to participating individuals or
24 companies to authorize them to design, program, license,
25 sublicense, manufacture, transport, store and make available
26 to the public a skill video game system within this
27 Commonwealth in accordance with this act and regulations
28 promulgated by the department.

29 (2) Establish regulator and enforcement authority over
30 the program.

1 (3) Develop enforcement procedures.

2 (b) General authority and duties of department.--The
3 department shall have general and sole regulatory authority over
4 the sale, distribution and use of a skill video game system as
5 described under this act.

6 (c) Specific authority and duties of department.--The
7 department shall have the specific power and duty to:

8 (1) Collect taxes from a distributor.

9 (2) Require and conduct or cause to be conducted
10 criminal history investigations on applicants and licenses
11 under this act.

12 (3) For purposes of licensing and enforcement and
13 background investigations, receive information otherwise
14 protected by 18 Pa.C.S. Ch. 91 (relating to criminal history
15 record information).

16 (4) Issue, approve, renew, revoke, suspend, condition or
17 deny issuance or renewal of a license or approval provided
18 under this act.

19 (5) Require prospective and existing applicants and
20 licenses to submit to fingerprinting by the Pennsylvania
21 State Police, who shall submit the fingerprints to the
22 Federal Bureau of Investigation or an agency approved by the
23 department for purposes of verifying the identity of the
24 individual and obtaining records of criminal arrest and
25 convictions.

26 (6) Promulgate rules and regulations necessary for the
27 administration and enforcement of this act. Except as
28 provided in section 1903, regulations shall be adopted as
29 provided under the act of July 31, 1968 (P.L.769, No.240),
30 referred to as the Commonwealth Documents Law, and the act of

1 June 25, 1982 (P.L.633, No.181), known as the Regulatory
2 Review Act.

3 (7) Require each person that holds a license issued
4 under this act to provide the periodic reports required of
5 licensees under this act.

6 Section 302. Sale, manufacturing, distribution, operation and
7 use of skill video game systems.

8 Notwithstanding any other provision of law to the contrary,
9 the sale, distribution, operation, possession, transportation
10 and use of a skill video game system in compliance with this act
11 are authorized in this Commonwealth. A skill video game system
12 shall not be deemed:

13 (1) A lottery, gambling device, slot machine, device
14 intrinsically connected with gambling or coin-operated
15 amusement device.

16 (2) "Games of chance" as defined under section 103 of
17 the act of December 19, 1988 (P.L.1262, No.156), known as the
18 Local Option Small Games of Chance Act.

19 CHAPTER 5

20 ORGANIZATION

21 Section 501. Licenses.

22 (a) Issuance.--The department shall have the authority to
23 issue licenses under this act.

24 (b) Provisional licenses.--The department shall issue a
25 provisional license to operate a skill video game system
26 beginning on the effective date of this section to a
27 distributor, operator or establishment that meets the
28 requirements of section 2503.

29 (c) Skill video game system license.--An initial application
30 period shall commence at a date set by the department. An

1 initial license may be utilized on the date the department
2 issues the initial license and shall remain valid for a minimum
3 of one year or until the department establishes a date for the
4 annual renewal of licenses.

5 (d) License criteria.--The granting of a license by the
6 department shall be subject to and dependent upon the
7 applicant's criminal history record information and other
8 criteria established by department regulation.

9 (e) License renewal.--An application to renew a license
10 shall be filed with the department prior to the expiration of
11 the license.

12 Section 502. Licensing requirements.

13 An entity, including each principal holding a controlling
14 interest, which seeks a distributor, operator and establishment
15 licensee shall be considered an applicant and shall provide the
16 following information for an initial or renewal license:

17 (1) Identification, including a driver's license or
18 passport.

19 (2) Naturalization papers or resident alien
20 identification, if applicable.

21 (3) Resident information for the previous five years.

22 (4) Employment information for the previous five years,
23 including dates employed and the name and address of the
24 employers so that a criminal history and credit check can be
25 completed.

26 (5) An interview for each principal who lives in this
27 Commonwealth.

28 (6) An individual questionnaire provided by the
29 department for each principal who lives outside of this
30 Commonwealth.

1 (7) Proof that the applicant has not had a felony
2 conviction within the last five years.

3 (8) Proof that the applicant has never been convicted of
4 a gambling-related felony.

5 (9) Proof that the applicant has not committed a crime
6 of moral turpitude in the last five years.

7 (10) Proof that the applicant has timely filed and
8 satisfied all Federal, State and local taxes.

9 Section 503. Granting licenses.

10 (a) General rule.--The department may grant, deny or revoke
11 a license under this act.

12 (b) Determination.--In making a decision under subsection
13 (a), the department shall determine whether the applicant is
14 able to comply with all applicable laws of this Commonwealth and
15 regulations relating to the activities in which the applicant
16 intends to engage under this act.

17 (c) Sale and transferability of license.--A license issued
18 under this act may be sold and is transferable subject to the
19 transferee's acceptability and ability to satisfy each
20 requirement of this act.

21 (d) Privilege.--The issuance or renewal of a license shall
22 be a revocable privilege.

23 (e) Multiple licenses.--A distributor, operator and
24 establishment may not hold multiple licenses.

25 (f) Appeals.--If the department denies an application, the
26 applicant shall have 30 days from the date of the department's
27 mailing of the denial to the applicant to file an appeal of the
28 denial. The appeal shall be filed with the Secretary of Revenue.
29 The appeal of a decision by the Secretary of Revenue shall be
30 filed with Commonwealth Court.

1 Section 504. Application and renewal costs of licenses.

2 (a) Payment.--The fee for an initial or renewal license
3 application shall be payable to the department when the
4 application or renewal is submitted.

5 (b) Initial license and costs.--An initial license
6 application fee shall be nonrefundable to an applicant. Initial
7 license application fees shall be as follows:

8 (1) A skill video game system distributor initial
9 application fee, \$1,000,000.

10 (2) A skill video game system operator initial license
11 application fee, \$25,000.

12 (3) A skill video game system establishment initial
13 license application fee, \$250.

14 (c) Renewal license and costs.--A renewal license
15 application fee shall be nonrefundable. Renewal license
16 application fees shall be as follows:

17 (1) A skill video game system distributor annual renewal
18 license application fee, \$100,000.

19 (2) A skill video game system operator annual renewal
20 license application fee, \$5,000.

21 (3) A skill video game system establishment annual
22 renewal license application fee, \$250.

23 Section 505. Allocation of skill video game system revenue
24 after tax.

25 The allocation of percentage of net profits earned shall be
26 as follows:

27 (1) An establishment shall receive 40%.

28 (2) An operator shall receive 40%.

29 (3) A distributor shall receive 20%.

30 Section 506. Issuance of license.

1 A license issued by the department to a participant shall be
2 effective only for the specified period and shall include
3 information required by the department.

4 Section 507. Term of license.

5 (a) Provisional license.--A provisional license shall be
6 valid until the issuance or denial of an initial license.

7 (b) Initial license.--An initial license shall remain valid
8 for one calendar year.

9 (c) Renewal license.--A renewal license shall be valid for
10 one calendar year from the date of issuance.

11 Section 508. License renewal.

12 (a) Renewal.--An application for a renewal license shall
13 include information required by the department.

14 (b) Approval.--The department shall renew a license using
15 the same process for granting licenses under Chapter 5.

16 (c) Nonrenewal decision.--A decision to deny or not renew a
17 license by the department shall include a notice specifying in
18 detail how the applicant has not satisfied the department's
19 requirements for renewal. The department may request additional
20 information from the applicant before deciding to grant or deny
21 an application for renewal. Within 30 days of the department's
22 decision to deny renewal, the applicant may request a hearing.
23 If a hearing is requested, the department shall set a hearing
24 date within 30 days of the nonrenewal decision.

25 Section 509. Suspension or revocation of license.

26 The department may suspend or revoke a license if the
27 participant violates any provision of this act or regulation of
28 the department.

29 CHAPTER 7

30 CERTIFICATION REQUIREMENTS

1 Section 701. Skill video game system testing.

2 (a) Certification.--Prior to obtaining a license under
3 Chapter 5, a skill video game system must be certified under
4 subsection (b). The following shall apply:

5 (1) Before the distributor sells, leases, licenses,
6 provides or distributes game software not qualified or
7 approved by the program as skill video game software, the
8 distributor shall supply to the department an engineering
9 report and opinion in complete forensic detail by an
10 independent testing laboratory approved by the department and
11 based on an examination of a prototype or production sample
12 of the skill video game software and approved skill video
13 game system to be certified. The engineering report and
14 opinion shall:

15 (i) Be restricted in scope to technical detail and
16 shall not be otherwise relied upon as a legal opinion
17 regarding whether skill or chance are predominant in
18 winner determination or as an interpretation of law.

19 (ii) Be signed by a principal or executive officer
20 of an independent testing laboratory, which signature
21 shall constitute the laboratory's certification regarding
22 its contents.

23 (iii) State, at a minimum, a written certification
24 to the department that the skill video game software is
25 one in which:

26 (A) Skill of the player rather than an element
27 of chance is the predominant factor affecting the
28 skill video game's outcome.

29 (B) The skill video game requires the prize
30 outcome for the single play and over a session of

1 gameplay to be such that without the player
2 exercising skill during the main phases of gameplay,
3 it would be impossible to win the prize offered.

4 (C) There must be no hard-coded minimum or
5 maximum payout percentage for a skill video game.

6 (D) There must not be any reflexive,
7 compensating algorithm that makes the skill video
8 game harder when it detects a highly skilled player
9 or when the skill video game's payout percentage goes
10 above 100%.

11 (E) An average player can learn to score and win
12 effectively on a skill video game.

13 (F) A player is informed of the criteria used in
14 selecting winners and rules are available for viewing
15 at any time other than in the middle of a skill video
16 game in play.

17 (G) Skill video games must be programmed to keep
18 true and accurate gameplay records, with a minimum of
19 ten game recall, and the number of payouts from the
20 skill video game, with a minimum of 10 voucher
21 recall. Accounting meters must be at least eight
22 digits in length, with six digits to the left of the
23 decimal.

24 (H) The skill video game is programmed so that a
25 maximum price to play is \$5 and the maximum winnings
26 per individual game are \$5,000.

27 (I) The skill video game allows for the display
28 of the software version, as well as lists of hardware
29 components of the approved terminal, in an easily
30 identifiable and accurate manner.

1 (2) A skill video game system shall remain certified and
2 valid unless material changes are made to the skill video
3 game software or equipment as deemed necessary by the
4 department.

5 (3) A distributor applicant applying for an initial
6 license shall provide the distributor applicant's skill video
7 game software in a manner consistent with rules and
8 regulations promulgated by the department.

9 (4) Any change to skill video game software which has
10 been previously approved by the department shall be submitted
11 to the department for approval in a manner designated by the
12 department.

13 (5) Certification of the requirements under this
14 subsection shall be made to the department by the
15 distributor, who shall represent that the certification is
16 being made subject to the penalties of 18 Pa.C.S. § 4904
17 (relating to unsworn falsification to authorities).

18 (b) Certification.--An independent testing laboratory
19 approved by the department shall provide a certification as
20 provided under this act.

21 (c) Field verification of certified skill video game
22 software.--The software distributor's skill video game software
23 shall allow for random field verification by an agent or
24 designee of the department. The distributor shall supply the
25 department with the unique signature of the application software
26 being tested and instructions allowing an agent or designee of
27 the department to field verify a production copy of the skill
28 video game system.

29 (d) Trademark, copyright, trade secret and confidential
30 proprietary material.--Nothing in this act is intended to

1 violate, compromise or facilitate infringement of or make public
2 material created, owned or possessed by a distributor.
3 Intellectual property or other material or information provided
4 by a software distributor to the department for inspection shall
5 be deemed as trademarked, copyrighted, a trade secret or
6 confidential proprietary material, and the material shall not be
7 subject to public access or inspection.

8 Section 702. Bonding.

9 (a) General rule.--To be eligible for an initial license, a
10 distributor shall execute a \$1,000,000 bond within 30 days of
11 issuance of the license. The bond shall specifically protect the
12 department's tax collection under this act, not the software
13 provider.

14 (b) Surety.--Each bond shall have as a surety a duly
15 authorized surety company or two sufficient individual sureties
16 approved by the department.

17 (c) Condition.--The bond is conditioned for the faithful
18 performance of the duties of the software provider to pay
19 applicable taxes required by this act to the department.

20 (d) Suspension or revocation.--Unless the bond is filed with
21 the department within the 30-day time period under subsection
22 (a), the department may suspend the initial license. Failure to
23 maintain an acceptable bond shall be grounds for license
24 revocation.

25 Section 703. Reporting.

26 (a) Monthly report.--Each distributor shall utilize a
27 terminal reporting system for the distributor's skill video game
28 system. A distributor shall submit a monthly report to the
29 department providing the following for the prior month:

30 (1) The complete tracking of all revenue derived through

1 the operation of all skill video game systems in operation
2 within all establishments.

3 (2) The reporting of gameplay statistics, including cash
4 in, cash out and numbers of games played.

5 (3) The physical locations of all skill video game
6 systems in possession of a distributor, operator or
7 establishment in this Commonwealth.

8 (b) Annual report.--By July 30 of each year, for the prior
9 year's business, each distributor shall report to the department
10 the following:

11 (1) The total number of skill video game systems that
12 operators purchased from a distributor, including all
13 terminal identification numbers.

14 (2) The number and type of skill video game systems that
15 operators have located within each establishment.

16 (3) The total number of skill video game systems and the
17 terminal identification numbers that each entity has in
18 inventory as of June 30.

19 (4) The total number of skill video game systems in
20 operation by county.

21 (5) The total number of skill video game systems in
22 operation by municipality.

23 (6) Other information that the department may require.

24 CHAPTER 9

25 DISTRIBUTORS

26 Section 901. Authorization.

27 A distributor, once licensed by the department, shall be
28 authorized to distribute terminals and associated devices for
29 skill video gaming that comply with the requirements under
30 Chapter 5.

1 Section 902. System requirements.

2 (a) Currency.--A skill video game system shall be equipped
3 with the ability to accept currency and shall distribute
4 winnings by ejection of a bearer scrip, card or other means
5 approved by the department redeemable only for cash at the
6 establishment where played. Winnings from players may be
7 redeemed at a redemption terminal within the establishment where
8 the bearer scrip or card was created.

9 (b) Internet.--A skill video game system shall be connected
10 to the Internet for purposes of security, authentication and
11 redemption or data collection and control.

12 (c) External ports.--Except as may be approved by the
13 department for the field verification of skill video game
14 software signatures, a skill video game system shall not have an
15 external data port or disk drive outside of a locked area within
16 the terminal.

17 (d) Rules of play.--The skill video game system shall
18 prominently display the rules of play either on the game screen
19 or on the terminal.

20 (e) Placard.--Each skill video game system shall bear a
21 placard in a prominent location and in a prominent color stating
22 as follows:

23 This game is licensed by the Pennsylvania Department of
24 Revenue and is NOT operated or maintained by the Pennsylvania
25 State Lottery.

26 (f) Other markings.--Each skill video game system shall
27 display the name of the distributor of the terminal and contact
28 information for the operator, including a mailing address and
29 telephone number.

30

CHAPTER 11

1 OPERATORS

2 Section 1101. Authorization.

3 An operator shall do the following:

4 (1) Purchase, lease, license, sublicense or provide
5 approved skill video game systems from a distributor.

6 (2) Distribute skill video game systems to
7 establishments under terms approved by the department.

8 (3) Collect and report skill video game system income
9 and reconcile with a terminal reporting system.

10 (4) Accept returns of skill video game systems from
11 establishments per regulations promulgated by the department.

12 Section 1102. Skill video game system placement agreements.

13 (a) Contract.--Within 60 days of receiving an initial
14 license, an operator shall enter into a contract with a licensed
15 distributor. In addition to any additional minimum standards for
16 the contract that the department requires, a skill video game
17 placement agreement shall:

18 (1) Include a provision rendering the agreement invalid
19 if either party's license or application is denied, revoked,
20 not renewed, withdrawn or surrendered.

21 (2) Provide the operator with 40% of the net profits.

22 (b) Term.--A skill video game placement agreement may be
23 active for a minimum term of five years but shall not exceed 10
24 years.

25 Section 1103. Player security.

26 Each establishment shall be provided a camera system from the
27 operator which shall be pointed directly on skill video game
28 systems and shall always be active. The camera system shall
29 record and collect all video footage. The video footage shall be
30 maintained and stored for the immediately prior 60 days.

1 Section 1104. Reporting.

2 An operator using the terminal reporting system shall submit
3 a monthly report to the distributor. The distributor shall
4 provide to the department a monthly report that includes the
5 following information for the prior month:

6 (1) The terminal identification number in an operator's
7 inventory and within each establishment.

8 (2) Other information as the department may require.

9 CHAPTER 13

10 ESTABLISHMENTS

11 Section 1301. Authorization.

12 An establishment shall do the following:

13 (1) Utilize skill video game systems from operators for
14 entertainment and play by the public.

15 (2) Return unused, damaged or inoperable skill video
16 game systems to the operator.

17 Section 1302. Skill video game placement agreements.

18 (a) Contract.--Within 60 days of receiving an initial
19 license, an establishment shall enter into a contract with an
20 operator. In addition to any minimum standards for contract that
21 the department requires, a skill video game placement agreement
22 shall:

23 (1) Include a provision rendering the skill video game
24 placement agreement invalid if either party's license or
25 application is denied, revoked, not renewed, withdrawn or
26 surrendered.

27 (2) Provide the establishment with 40% of the net
28 profits.

29 (b) Term.--A skill video game placement agreement may be
30 active for a minimum term of five years but shall not exceed 10

1 years.

2 Section 1303. Limits on skill video game terminals.

3 (a) Terminals.--An establishment may have a maximum of two
4 skill video game terminals per 500 square feet of public floor
5 common space available to the patrons of the establishment.

6 (b) Number of terminals.--

7 (1) An establishment may not exceed five approved skill
8 video game terminals.

9 (2) An establishment that is owned by an organization
10 under section 501(c) of the IRC of 1986 may not exceed 10
11 approved skill video game terminals.

12 (c) Placement.--Skill video game terminals shall be placed
13 in public floor space visible to patrons and employees.

14 Section 1304. Prohibition on miniature casinos and stop and
15 gos.

16 (a) General rule.--An operator is prohibited from installing
17 skill video game systems in an establishment where the sole or
18 primary source of net revenue is derived from skill video game
19 systems.

20 (b) Exemption.--Subsection (a) shall not apply to an
21 organization established under section 501(c) of the IRC of
22 1986.

23 Section 1305. Limitation of access by individuals under 18
24 years of age.

25 The department shall promulgate regulations, including
26 employee training, for licensed establishments to eliminate, as
27 much as reasonably practicable, the play of skill video game
28 systems by individuals under 18 years of age. Under no
29 circumstances shall an establishment redeem a skill video game
30 system redeemable bearer scrip, card or other means approved by

1 the department from an individual under 18 years of age.
2 Establishment licensees are required to post problem gaming
3 signage and make problem gaming informational materials, the
4 terms of which shall be established by the department, available
5 at the establishment.

6 Section 1306. Qualifications for establishments.

7 (a) General rule.--Skill video game systems shall be played
8 only at:

9 (1) an establishment licensed by the Pennsylvania Liquor
10 Control Board;

11 (2) an organization established under section 501(c) of
12 the IRC of 1986; or

13 (3) a business that sells age-restricted products such
14 as tobacco and alcohol.

15 (b) License required.--An establishment under subsection (a)
16 must be licensed by the Commonwealth to operate a skill video
17 game system.

18 (c) Subdivision prohibited.--An establishment shall consist
19 of one physical building and may not be subdivided for the
20 purposes of obtaining additional licenses to operate skill video
21 game systems.

22 CHAPTER 15

23 PLAYERS

24 Section 1501. Authorization.

25 It shall be lawful for a user to play and receive winnings
26 from a skill video game system dispensed in the form of a bearer
27 scrip, card or other means approved by the department which is
28 redeemable only at the establishment for cash. Cash shall not be
29 dispensed directly by the terminal.

30 Section 1502. Winnings.

1 A player's net winnings from the play of a licensed skill
2 video game terminal shall be classified as compensation under
3 section 303 of the act of March 4, 1971 (P.L.6, No.2), known as
4 the Tax Reform Code of 1971.

5 CHAPTER 17

6 TAX

7 Section 1701. Tax imposed.

8 (a) General rule.--A tax of 16% of all gross profits
9 generated by skill video game system play shall be paid to the
10 Commonwealth by the distributor. The distributor shall submit to
11 the department by the 20th of each month:

12 (1) A report of gross profits under this subsection for
13 the prior month.

14 (2) Any tax payments due under this subsection for the
15 prior month.

16 (b) Deposit.--Revenue received from the tax imposed under
17 this section shall be distributed by the department and shall be
18 proportioned monthly under the following formula:

19 (1) Fifty percent of the revenue shall be deposited into
20 the General Fund.

21 (2) Twenty-two percent of the revenue shall be
22 distributed to individual counties proportionally based upon
23 the gross profits derived from the operation of all skill
24 video game systems within that county.

25 (3) Twenty-two percent of the revenue shall be
26 distributed to individual municipalities based on the gross
27 profits derived from the operation of skill video game
28 systems within that municipality.

29 (4) Six percent of the revenue shall be distributed to
30 the Bureau of Liquor Control Enforcement for the purpose of

1 enforcing this act.

2 (c) Exemption.--Revenue generated from approved skill video
3 game terminals being played by the public and game credit
4 licenses to supply skill video game systems shall not be
5 subjected to the tax imposed under section 202 of the act of
6 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
7 1971.

8 (d) Information.--The distributor, operator and
9 establishment shall provide to the department any information
10 required by the department for the department's assessment and
11 review of taxes under this section.

12 CHAPTER 19

13 ADMINISTRATION

14 Section 1901. Governing practices and procedures.

15 The provisions of 2 Pa.C.S. (relating to administrative law
16 and procedure) shall apply to all actions of the department
17 under this act constituting an adjudication as defined in 2
18 Pa.C.S. § 101 (relating to definitions).

19 Section 1902. Law enforcement notification.

20 Notwithstanding any provision of this act or any other law to
21 the contrary, the department may notify law enforcement of
22 information relating to any violation or suspected violation of
23 this act.

24 Section 1903. Temporary regulation.

25 (a) Promulgation.--In order to facilitate the prompt
26 implementation of this act, the department shall promulgate
27 temporary regulations as outlined in section 2503. The
28 department may promulgate temporary regulations not subject to
29 sections 201, 202, 203, 204, and 205 of the act of July 31, 1968
30 (P.L.769, No.240), referred to as the Commonwealth Documents

1 Law, sections 204(b) and 301(10) of the act of October 15, 1980
2 (P.L.950, No.164), known as the Commonwealth Attorneys Act, and
3 the act of June 25, 1982 (P.L.633, No.181), known as the
4 Regulatory Review Act.

5 (b) Expiration.--The department's authority to adopt
6 temporary regulations under subsection (a) shall expire two
7 years after the effective date of this section. Regulations
8 adopted after this period shall be promulgated as provided by
9 law.

10 (c) Publication.--The department shall transmit notice of
11 the temporary regulations to the Legislative Reference Bureau
12 for publication in the Pennsylvania Bulletin no later than six
13 months after the effective date of this section.

14 Section 1904. Reports by licensees.

15 An operator and establishment shall file a monthly report
16 with the distributor as designated by the department. The
17 distributor shall make the reports available to the department.

18 CHAPTER 21

19 OFFENSES RELATED TO OPERATION OF ILLEGAL GAMBLING

20 DEVICES AND UNLICENSED SKILL VIDEO GAMES

21 Section 2101. Criminal distribution and operation of unlicensed
22 skill video game terminals.

23 In addition to any other penalty provided by law, a person
24 commits a misdemeanor of the first degree if the person owns,
25 operates, maintains, places into operation or has a financial
26 interest in an unlicensed skill video game system or business
27 that owns, operates, maintains or places into operation or has a
28 financial interest in an unlicensed skill video game system:

29 (1) which is offered or made available to persons to
30 play or participate for direct or indirect consideration,

1 including consideration associated with a related product,
2 service or activity; and

3 (2) for which the person playing the unlicensed skill
4 video game system may become eligible for a cash or cash-
5 equivalent prize, whether or not the eligibility for or value
6 of the cash or cash-equivalent prize is determined by or has
7 any relationship to the outcome of or play of the unlicensed
8 skill video game system.

9 CHAPTER 23

10 OFFENSES RELATED TO ILLEGAL MANUFACTURING,

11 DISTRIBUTION OR OPERATION OF SKILL VIDEO GAMES

12 Section 2301. Law enforcement.

13 (a) General criminal enforcement.--Except as provided in
14 subsection (b), the Bureau of Liquor Control Enforcement of the
15 Pennsylvania State Police shall be responsible for enforcement
16 of the criminal provisions of this act.

17 (b) Counties of the first class.--In addition to the Bureau
18 of Liquor Control Enforcement of the Pennsylvania State Police,
19 a local law enforcement agency may enforce the criminal
20 provisions of this act in a county of the first class.

21 (c) Definition.--As used in this section, the term "local
22 law enforcement agency" includes the Philadelphia Police
23 Department.

24 Section 2302. Criminal distribution of skill video game
25 systems.

26 In addition to any other penalty provided by law, a person
27 commits a misdemeanor of the first degree if the person
28 illegally sells, leases, licenses, sublicenses or distributes to
29 any person or entity a skill video game system without being
30 properly licensed by the department and contracted with a

1 software provider.

2 Section 2303. Criminal alteration of skill video game software,
3 terminal or related equipment.

4 In addition to any other penalty provided by law, a person
5 commits a felony of the third degree if the person
6 intentionally, knowingly or recklessly alters a skill video game
7 system, skill video game software or skill video game terminal
8 in any manner so that:

9 (1) chance, rather than skill, is the factor affecting
10 the prize outcome of the skill video game on a single-play
11 basis and on the basis of a session of single plays;

12 (2) a player does not have an opportunity on every play
13 to win back more than what was spent to play the skill video
14 game; or

15 (3) a skill video game terminal is capable of issuing
16 currency, coins, a stored-value card or other cash equivalent
17 or other medium of exchange.

18 Section 2304. Criminal redemption of value to individual under
19 18 years of age.

20 In addition to any other penalty provided by law, a person
21 commits a summary offense if the person provides value of any
22 kind to an individual under 18 years of age in exchange for an
23 approved skill video game terminal redeemable bearer scrip.

24 Section 2305. Additional penalties.

25 (a) Civil penalties.--In addition to any other remedy
26 available to the department, the department may assess a civil
27 penalty for any violation of this act, a regulation promulgated
28 under this act or order issued under this act. The following
29 penalties shall apply:

30 (1) The department may assess a civil penalty of not

1 more than \$10,000 for each violation and an additional
2 penalty of not more than \$1,000 for each day of a continuing
3 violation. In determining the amount of each penalty, the
4 department shall take the following into consideration:

5 (i) The gravity of the violation.

6 (ii) The willfulness of the violation.

7 (iii) Previous violations, if any, by the person
8 being assessed.

9 (iv) The economic benefit to the person being
10 assessed for failing to comply with the requirements of
11 this act, a regulation promulgated under this act or an
12 order issued under this act.

13 (2) The department may issue a written warning in lieu
14 of a civil penalty to a person or entity who aids, abets,
15 counsels, induces, procures or causes another person to
16 violate this act, a regulation promulgated under this act or
17 an order issued under this act.

18 (b) Sanctions.--

19 (1) In addition to any other penalty authorized by law,
20 the department may impose the following sanctions:

21 (i) The revocation or suspension of the license of a
22 person found to be in violation of this act, a regulation
23 promulgated under this act or an order issued under this
24 act.

25 (ii) The revocation or suspension of the license of
26 a person for conduct or activity or the occurrence of an
27 event that would have disqualified the person from
28 receiving the license.

29 (iii) The ordering of restitution of money or
30 property unlawfully obtained or retained by a licensee.

1 (2) A person who aids, abets, counsels, induces,
2 procures or causes another person to violate this act shall
3 be subject to the sanctions provided under paragraph (1).

4 (c) Cost of action.--The department may assess against a
5 person determined to be in violation of this act the cost of
6 investigation of the violation.

7 (d) Insignificant violations.--Nothing in this section shall
8 be construed to require the assessment of a civil penalty or the
9 imposition of a sanction for an insignificant violation of this
10 act if the department determines that the public interest will
11 be adequately served under the circumstances by the issuance of
12 a written warning.

13 Section 2306. Surrendering illegal skill video games and
14 equipment.

15 For a period of 90 days from the effective date of this
16 section, a skill video game, skill video game device or other
17 skill video game equipment not licensed by this act or another
18 law of this Commonwealth may, without criminal penalty or fine,
19 be surrendered by a person to the Commonwealth at designated
20 drop-off facilities around this Commonwealth as determined by
21 law enforcement and the department. All games, devices and
22 equipment surrendered shall be recycled or destroyed at the
23 direction of law enforcement. Costs for this service shall be
24 covered by fees and taxes generated under this act.

25 CHAPTER 25

26 MISCELLANEOUS PROVISIONS

27 Section 2501. Conflict.

28 The sale, manufacture, distribution, possession and use of
29 approved skill video games, skill video game terminals or other
30 related skill video game equipment approved by the department in

1 compliance with this act shall not be deemed to be a violation
2 of 4 Pa.C.S. Pt. II (relating to gaming), 18 Pa.C.S. § 5513
3 (relating to gambling devices, gambling, etc.) or the act of
4 December 19, 1988 (P.L.1262, No.156), known as the Local Option
5 Small Games of Chance Act.

6 Section 2502. Zoning.

7 The following shall apply:

8 (1) A distributor, operator and establishment shall only
9 have to meet the same municipal zoning and use requirements
10 as other similar business types that are located in the same
11 zoning district.

12 (2) A municipality may not approve municipal zoning or
13 land use requirements that restrict or prohibit placement,
14 use or play of an approved skill video game terminal in a
15 zoning district that allows any of the following:

16 (i) the sale of beer, wine and spirits;

17 (ii) the sale or play of State lottery games at
18 commercial establishments; or

19 (iii) gaming or wagering conducted under 4 Pa.C.S.
20 Pt. II (relating to gaming).

21 Section 2503. Provisional licenses.

22 (a) Provisional licenses.--

23 (1) A distributor that has filed registration
24 information with the department under this section shall be
25 permitted to continue operation.

26 (2) Within 30 days after the effective date of this
27 section, a distributor shall collect and submit to the
28 department the licenses application fee payments and
29 registration information of all licensees. The following
30 shall apply:

1 (i) A submission to the department under this
2 paragraph shall include prepayment of the initial license
3 fee and the registration information.

4 (ii) A distributor shall promptly submit
5 registration information to the department as the
6 information pertains to operators and establishments in
7 compliance with the guidelines provided by the
8 department.

9 (iii) Upon submission of registration information, a
10 participant shall be considered to have a provisional
11 license pending.

12 (iv) The fee shall be the same as the initial
13 license application fee under section 504. A payment
14 under this paragraph shall be considered payment in full
15 for an initial license application fee.

16 (v) A provisional license shall be valid until the
17 department approves and issues the initial license under
18 this act. Certification of the skill video game software
19 by an independent software testing laboratory under
20 Chapter 7 shall be required for approval under this
21 subparagraph.

22 (vi) A payment shall be forfeited if the department
23 declines to issue the initial license or revokes the
24 provisional license.

25 (vii) If a license is denied or revoked, the
26 licensee shall cease the distribution, operation or use
27 of skill video game systems or related equipment.

28 (viii) An establishment shall not be allowed to
29 operate with a provisional license without having been
30 approved by a distributor who has submitted the

1 establishment's name and information to the department.

2 (ix) A distributor, operator and establishment may
3 buy, use, sell, lease, license or otherwise provide skill
4 video game systems or related equipment as prescribed by
5 the department.

6 (x) A distributor may not sell, lease, license or
7 otherwise provide skill video game systems or ticket
8 redemption terminals to an operator or establishment that
9 does not qualify or hold a provisional license.

10 (xi) A distributor or operator may not sell, lease,
11 license or otherwise provide a skill video game system or
12 ticket redemption terminal to an establishment that does
13 not qualify or hold a provisional license.

14 (xii) During the provisional license period, the
15 taxes required under Chapter 17 shall apply to
16 provisional licensees.

17 (xiii) Each month, a distributor shall be required
18 to submit a report of terminal identification numbers,
19 location names, addresses, cash-in, cash-out, tax amounts
20 per terminal and tax payments to the department no later
21 than the 15th day of the following month.

22 (3) Beginning 60 days after the effective date of this
23 section, a distributor or operator may not apply for a
24 provisional license.

25 (4) An establishment may continue to obtain provisional
26 licenses in accordance with this section.

27 (5) One year after receipt of an initial license, an
28 entity shall apply for a renewal license.

29 (b) License fee.--An applicant who applies and pays for a
30 provisional license application shall not be required to pay an

1 additional initial license application fee once final rules and
2 regulations are promulgated by the department. If, for any
3 reason, the applicant is denied, the applicant shall forfeit the
4 payment to the department.

5 (c) Enforcement.--Within 30 days after the effective date of
6 this section, a distributor shall coordinate with the department
7 to ensure that only provisional licensees are operating accepted
8 skill video games and approved skill video game terminals. A
9 distributor shall provide all tools for law enforcement to
10 validate approved skill video game software and skill video game
11 terminals in the field utilizing terminal identification
12 numbers.

13 Section 2504. Civil actions.

14 A civil action may be brought by a private party against a
15 person who conducts any of the following activities in this
16 Commonwealth without a valid license to conduct the activities
17 under this act:

18 (1) sells, leases, licenses or otherwise provides skill
19 video game software;

20 (2) sells, leases, licenses, provides or otherwise
21 distributes approved skill video game terminals; or

22 (3) possesses and is permitting play of an approved
23 skill video game terminal.

24 Section 2505. Notice.

25 The department shall provide notice to the Legislative
26 Reference Bureau for publication in the Pennsylvania Bulletin of
27 the department's date of commencement of licensing under Chapter
28 3.

29 Section 2506. Effective date.

30 This act shall take effect as follows:

1 (1) The following provisions shall take effect
2 immediately:
3 (i) This section.
4 (ii) Chapter 25 of this act.
5 (2) The remainder of this act shall take effect in 90
6 days.