

## AN ACT

1 Providing for the licensing and regulation of video gaming;  
2 prescribing powers and duties of the Pennsylvania State  
3 Police and the Department of Revenue; establishing the State  
4 Video Gaming Fund; and prescribing penalties.

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9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Short title.

12 This act shall be known and may be cited as the Video Gaming  
13 Act.

14 Section 2. Scope of act.

15 This act allows for the licensing and regulation of video  
16 gaming in this Commonwealth.

17 Section 3. Definitions.

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

21 "Coin-operated amusement machine." A machine that requires  
22 the insertion of a coin, currency or tokens to play or activate  
23 a game, the outcome of which is primarily determined by the  
24 skill of the player. The term does not include a video lottery  
25 terminal.

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

27 "Fund." The State Video Gaming Fund established by this act.

28 "Gaming machine." A device or machine that has the outcome  
29 of play primarily determined by chance. The term includes an  
30 antique slot machine under 18 Pa.C.S. § 5513(c) (relating to

1 gambling devices, gambling, etc.) when used for profit. The term  
2 shall not include any of the following:

3 (1) A coin-operated amusement machine.

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

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

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

11 (5) Lottery terminals used under the act of August 26,  
12 1971 (P.L.351, No.91), known as the State Lottery Law.

13 "Licensed establishment." A restaurant, bar, tavern, hotel  
14 or club that has a valid liquor or malt or brewed beverage  
15 license under Article IV of the act of April 12, 1951 (P.L.90,  
16 No.21), known as the Liquor Code.

17 "Manufacturer." An individual, partnership, association or  
18 corporation that:

19 (1) Is licensed by the Department of Revenue.

20 (2) Manufactures or assembles video gaming machines.

21 "Net profits." All money put into a video gaming machine  
22 minus the cash awards paid out to players.

23 "Operator." An individual, partnership, association or  
24 corporation licensed by the Department of Revenue to buy, sell,  
25 own, maintain, service or distribute video gaming machines for  
26 placement in licensed establishments. The term does not include  
27 a manufacturer.

28 "Secretary." The Secretary of Revenue.

29 "Service technician." An individual holding a service  
30 technician's license issued by the Department of Revenue

1 allowing the individual to service, maintain and repair video  
2 gaming machines.

3 "State Lottery." The lottery established and operated under  
4 the act of August 26, 1971 (P.L.351, No.91), known as the State  
5 Lottery Law.

6 "Video gaming machine." A device or machine that upon  
7 insertion of a coin or currency will play or simulate the play  
8 of a video poker, keno, blackjack or any other game authorized  
9 by the Department of Revenue that utilizes a video display and  
10 microprocessors and in which by the skill of the player or by  
11 chance the player may receive free games or credits that may be  
12 redeemed for cash.

13 The term shall not include any of the following:

14 (1) Small games of chance as authorized under the act of  
15 December 19, 1988 (P.L.1262, No.156), known as the Local  
16 Option Small Games of Chance Act.

17 (2) Lottery games of the Pennsylvania State Lottery as  
18 authorized under the act of August 26, 1971 (P.L.351, No.91),  
19 known as the State Lottery Law.

20 (3) Bingo as authorized under the act of July 10, 1981  
21 (P.L.214, No.67), known as the Bingo Law.

22 (4) Slot machines or table games as authorized under 4  
23 Pa.C.S. (relating to amusements).

24 Section 4. Video gaming.

25 The department shall regulate and adopt standards for video  
26 gaming activities and provide for video gaming at licensed  
27 establishments as authorized under this act. With the exception  
28 of tickets indicating credits won, which are redeemable for  
29 cash, no machine may directly dispense coins, cash, tokens or  
30 anything else of value.

1 Section 5. Licensing of manufacturers, operators and service  
2 technicians.

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

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

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

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

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

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

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

1 affairs of the applicant has done any of the following:

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

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

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

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

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

18 (c) Term and application fees.--

19 (1) A license issued under this section shall be valid  
20 for a period of three years from the date of issuance and may  
21 be renewed for three-year terms upon application of the  
22 applicant.

23 (2) An applicant for a license under this section must  
24 pay a nonrefundable initial application fee of \$500 and a  
25 nonrefundable renewal application fee of \$100.

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

30 (1) The applicant shall be required to consent to a

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

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

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

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

1 the profits or participates or will participate in the  
2 management of the affairs of the applicant, are such that the  
3 participation of the applicant in the operations of video  
4 gaming under this act will be consistent with the public  
5 interest. The Pennsylvania State Police shall notify the  
6 department of its determination and may share information  
7 with the department to the extent permitted by Federal and  
8 State law as determined by the Pennsylvania State Police.

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

16 (i) Have been convicted of a crime involving moral  
17 turpitude.

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

25 (iii) Have been convicted of any fraud or  
26 misrepresentation in any context.

27 (6) The department may not issue a license to any  
28 applicant whose participation is deemed by the Pennsylvania  
29 State Police to be inconsistent with the public interest.  
30 Determination of suitability by the Pennsylvania State Police

1 shall not entitle an applicant to receive a license under  
2 this act.

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

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

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

26 Section 6. Licensed establishment license.

27 The department shall issue a license to any licensed  
28 establishment upon showing that its liquor or retail dispenser  
29 license is valid and is in good standing with the Pennsylvania  
30 Liquor Control Board. The annual fee for a licensed

1 establishment shall be \$500 per video gaming machine.

2 Section 7. Limitations on licensed establishments.

3 (a) General rule.--Licensed establishments shall be subject  
4 to the following limitations:

5 (1) No licensed establishment may have more than ten  
6 video gaming machines.

7 (2) No applicant may hold more than one type of license  
8 authorized by this act.

9 (3) Each licensee must pay its license fee. Payment of  
10 the fee by a person, partnership or corporation other than  
11 the licensee is prohibited.

12 (b) Unlawful acts.--

13 (1) No licensed establishment shall permit:

14 (i) An individual under 21 years of age to operate  
15 or attempt to operate a video gaming machine.

16 (ii) An individual under 21 years of age to redeem  
17 or attempt to redeem credits or tickets won or to receive  
18 or attempt to receive cash or prizes from a video gaming  
19 machine.

20 (iii) A visibly intoxicated person to play a video  
21 gaming machine.

22 (iv) An individual to tamper with the connection of  
23 a video gaming machine to the central computer.

24 (2) In addition to any other penalties provided by law,  
25 a person who violates paragraph (1)(i), (ii) or (iii) commits  
26 a summary offense.

27 (c) Seizure, forfeiture and destruction of gaming  
28 machines.--Gaming machines shall be considered to be per se  
29 illegal. Gaming machines and the proceeds therefrom may be  
30 seized upon view as illegal contraband by agents of the

1 department and any other law enforcement agency. The owner of a  
2 gaming machine shall have no right to compensation for the  
3 seizure and destruction of a gaming machine or the proceeds of a  
4 gaming machine.

5 (d) Penalties.--

6 (1) In the case of a gaming machine seized from a  
7 licensed establishment, for a first violation, a penalty of  
8 at least \$1,000 and not more than \$5,000 and a suspension of  
9 the licensed establishment owner's liquor license for not  
10 less than seven consecutive days and, for each subsequent  
11 violation, a penalty of \$15,000 and a suspension of the  
12 liquor license for not less than 14 consecutive days.

13 (2) In the case of a gaming machine seized from a place  
14 of business other than a licensed establishment, for a first  
15 violation, a penalty of at least \$1,000 and not more than  
16 \$5,000 against the owner of the business from which the  
17 gaming machine was seized and, for each subsequent violation,  
18 a penalty of \$15,000.

19 Section 8. Central computer system.

20 The department shall utilize the central computer system  
21 utilized by the State Lottery. All licensed video gaming  
22 machines must be linked to the central computer system at the  
23 State Lottery.

24 Section 9. Video gaming machine prototype.

25 (a) General rule.--The department shall develop a prototype  
26 video gaming machine that includes hardware and software  
27 specifications. The specifications shall include the following  
28 provisions:

29 (1) All video gaming machines shall interact with the  
30 central computer system.

1           (2) Irremovable identification plates shall appear on  
2 the exterior of the video gaming machine containing the name  
3 of the manufacturer and the serial and model number of the  
4 video gaming machine.

5           (3) Rules of play shall be displayed on the video gaming  
6 machine face or screen as promulgated by regulation of the  
7 department.

8           (4) A video gaming machine may not directly dispense  
9 coins, cash, tokens or any other article of exchange or value  
10 except for tickets. The tickets shall be dispensed by  
11 pressing the ticket-dispensing button on the machine at the  
12 end of one's turn or play. The ticket shall indicate the  
13 total amount of credits and the cash award and the player  
14 must turn in this ticket to the appropriate person at the  
15 licensed establishment to receive the cash award. The cost of  
16 the credit shall be \$.25 and the number of credits played per  
17 game shall not exceed ten.

18           (5) No cash award for any individual game may exceed  
19 \$1,000.

20           (6) All video gaming machines shall be designed and  
21 manufactured with total accountability to include gross  
22 proceeds, net profits, winning percentages and any other  
23 information the department requires.

24           (7) A video gaming machine shall pay out a minimum of  
25 85% of the amount wagered.

26           (8) All video gaming machines shall contain a prominent  
27 sign on the front of the machine with the following  
28 statement:

29 If you or someone you know has a gambling problem, help is  
30 available. Call (Toll-free telephone number provided by the

1 State).

2 (b) Agreement with Pennsylvania Gaming Control Board.--The  
3 department may enter into an agreement with the Pennsylvania  
4 Gaming Control Board to develop and verify specifications for  
5 video gaming machines.

6 Section 10. Fees.

7 (a) Operator license fee.--The annual fee for an operator  
8 license shall be \$25,000 for the first 50 video gaming machines  
9 and an additional \$500 per video gaming machine license in  
10 excess of 50. An operator license permits the operator to sell  
11 video gaming machines to another licensed operator.

12 (b) Manufacturer license fee.--The annual fee for a  
13 manufacturer license shall be \$10,000.

14 (c) Service technician license fee.--The annual fee for a  
15 service technician license shall be \$100.

16 (d) Deposit of fees.--All license fees shall be deposited  
17 into the Fund.

18 Section 11. Unlawful use by minors.

19 (a) Prohibition.--

20 (1) No individual under 21 years of age may use or play  
21 a video gaming machine.

22 (2) An individual who violates this subsection commits a  
23 summary offense.

24 (b) Licensees.--

25 (1) A licensed establishment may not, regardless of  
26 knowledge or intent, permit an individual under 21 years of  
27 age to play or use a video gaming machine.

28 (2) A licensed establishment that violates this  
29 subsection commits a misdemeanor of the second degree.

30 Section 12. Inducements prohibited.

1 (a) General rule.--No video gaming operator may offer or  
2 give any type of inducement or incentive to a licensed  
3 establishment to secure a machine placement agreement.

4 (b) Definition.--As used in this section, the term  
5 "inducement" or "incentive" means consideration from a licensed  
6 machine vendor to a licensed establishment owner as an  
7 enticement to solicit or maintain the licensed establishment  
8 owner's business. The term includes cash, gifts, loans and  
9 prepayment of commissions.

10 Section 13. Multiple types of licenses prohibited.

11 (a) Manufacturer restriction.--No manufacturer may be  
12 licensed as an operator or own, manage or control a licensed  
13 establishment. A manufacturer may be licensed only to sell to  
14 licensed operators.

15 (b) Operator restriction.--

16 (1) No licensed operator may:

17 (i) be licensed as a manufacturer; or

18 (ii) own, manage or control a licensed  
19 establishment.

20 (2) A licensed operator shall be licensed only to  
21 contract with licensed establishments.

22 (3) Nothing in this subsection shall be construed to  
23 prohibit a licensed operator from selling used equipment to  
24 another licensed operator.

25 (c) Establishment owner restriction.--No owner of a licensed  
26 establishment may be licensed as a manufacturer or operator. An  
27 owner of a licensed establishment may only contract with an  
28 operator or service technician to place and service equipment.

29 Section 14. Illegal activities.

30 No person may sell, distribute, service, own, operate or

1 place on location a video gaming machine unless the person is  
2 licensed under this act and is in compliance with all  
3 requirements of this act.

4 Section 15. Distribution of net profits.

5 Net profits shall be calculated by subtracting cash awards  
6 from the total consideration played on the machine. The net  
7 profits from each video gaming machine shall be distributed in  
8 the following manner:

9 (1) Thirty percent to the licensed establishment.

10 (2) Thirty percent to the licensed operator.

11 (3) Forty percent to the fund.

12 Section 16. State Video Gaming Fund.

13 (a) Establishment.--The State Video Gaming Fund is  
14 established in the State Treasury.

15 (b) Deposit of fees.--Fees under section 10(d) and the  
16 portion of net profits under section 15(3) shall be deposited  
17 into the fund.

18 (c) Deductions.--

19 (1) The department shall determine costs, expenses or  
20 payments to be deducted from the fund to the appropriate  
21 agency necessary to administer the act.

22 (2) The deductions made under this subsection shall not  
23 exceed 10% of the total funds available in the fund.

24 (3) The following costs and expenses shall be paid from  
25 the fund upon appropriation by the General Assembly:

26 (i) The costs and expenses to be incurred by the  
27 department in administering this act based upon a budget  
28 submitted by the department under subsection (d).

29 (ii) The costs and expenses to be incurred by the  
30 Pennsylvania State Police and the Office of Attorney

1 General and not otherwise reimbursable under this act in  
2 administering, regulating and enforcing this act based  
3 upon a budget submitted by the department under  
4 subsection (d).

5 (iii) The costs and expenses to be incurred by the  
6 Pennsylvania Gaming Control Board, if an agreement is  
7 entered into with the department under section 9(b), in  
8 carrying out its responsibilities under this act based  
9 upon a budget submitted by the department under  
10 subsection (d).

11 (d) Itemized budget reporting.--

12 (1) The department, the Pennsylvania Gaming Control  
13 Board, the Pennsylvania State Police and the Office of  
14 Attorney General shall prepare and annually submit to the  
15 chairman of the Appropriations Committee of the Senate and  
16 the chairman of the Appropriations Committee of the House of  
17 Representatives an itemized budget consisting of amounts to  
18 be appropriated out of the fund as provided for in subsection  
19 (a).

20 (2) As soon as practicable after receiving copies of the  
21 itemized budgets submitted under paragraph (1), the  
22 department shall prepare and submit to the chairman of the  
23 Appropriations Committee of the Senate and the Appropriations  
24 Committee of the House of Representatives analyses of and  
25 make recommendations regarding the itemized budgets.

26 (3) After determining the appropriate funding based on  
27 paragraphs (1) and (2), the funds shall be appropriated by  
28 the General Assembly to the appropriate department or agency.

29 (e) Funding for compulsive gambling programs.--The  
30 department shall allocate at least \$500,000 annually for the

1 purpose of treating compulsive gambling in this Commonwealth.  
2 This allocation shall be appropriated out of the fund as  
3 provided for in subsection (a).

4 (f) Interfund transfers.--Monthly, the State Treasurer shall  
5 transfer the remaining balance in the fund which is not  
6 allocated in subsections (c) or (e) to the State Lottery Fund  
7 established in section 311 under the act of August 26, 1971  
8 (P.L.351, No.91), known as the State Lottery Law.

9 Section 17. Preemption of local taxes and license fees.

10 (a) General rule.--Video gaming machines shall be exempt  
11 from taxes levied under the following:

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

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

16 (3) 53 Pa.C.S. Pt. III Subpt. E (relating to home rule  
17 and optional plan government).

18 (4) Any statute that confers taxing authority to a  
19 political subdivision.

20 (b) Exemption and limitation.--

21 (1) Video gaming machines are exempt from local  
22 licensing fees.

23 (2) Local licensing fees imposed on all other coin-  
24 operated amusement machines shall not exceed \$150.

25 Section 18. Exemption from State gaming laws.

26 Video gaming machines authorized under this act and their use  
27 as authorized under this chapter are exempt from 18 Pa.C.S. §  
28 5513 (relating to gambling devices, gambling, etc.).

29 Section 19. Exemption from Federal regulation.

30 The General Assembly declares that the Commonwealth is exempt

1 from section 2 of the Gambling Devices Transportation Act (64  
2 Stat. 1134, 15 U.S.C. § 1172 et seq.). Shipments of approved  
3 video gaming machines into this Commonwealth in compliance with  
4 sections 3 and 4 of the Gambling Devices Transportation Act (64  
5 Stat. 1134, 15 U.S.C. §§ 1173 and 1174) shall be deemed legal  
6 shipments into this Commonwealth.

7 Section 20. Effective date.

8 This act shall take effect in 60 days.