

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.

TABLE OF CONTENTS

5
6 Section 1. Short title.
7 Section 2. Scope of act.
8 Section 3. Definitions.
9 Section 4. Video gaming.
10 Section 5. Licensing of manufacturers, operators and service
11 technicians.
12 Section 6. Licensed establishment license.
13 Section 7. Limitations on licensed establishments.
14 Section 8. Central communications system.
15 Section 9. Video gaming machine prototype.
16 Section 10. Fees.
17 Section 11. Unlawful use by minors.
18 Section 12. Inducements prohibited.

- 1 Section 13. Multiple types of licenses prohibited.
- 2 Section 14. Illegal activities.
- 3 Section 15. Distribution of net profits.
- 4 Section 16. State Video Gaming Fund.
- 5 Section 17. Preemption of local taxes and license fees.
- 6 Section 18. Exemption from State gaming laws.
- 7 Section 19. Exemption from Federal regulation.
- 8 Section 20. Effective date.

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 of the Commonwealth.

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. The term shall not include any of the
13 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 (a) Duty of department.--The department shall regulate and
26 adopt standards for video gaming activities and provide for
27 video gaming at licensed establishments as authorized under this
28 act.

29 (b) Prohibition.--With the exception of tickets indicating
30 credits won, which are redeemable for cash, no machine may

1 directly dispense coins, cash, tokens or anything else of value.
2 Section 5. Licensing of manufacturers, operators and service
3 technicians.

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

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

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

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

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

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

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

1 participates or will participate in the management of the
2 affairs of the applicant has done any of the following:

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

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

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

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

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

19 (c) Term and application fees.--

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

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

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

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

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

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

27 (4) Upon completion of the background investigation, the
28 Pennsylvania State Police shall determine whether the
29 experience, character and general fitness of the applicant
30 and its owners, officers, directors, stockholders and

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

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

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

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

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

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

1 Determination of suitability by the Pennsylvania State Police
2 shall not entitle an applicant to receive a license under
3 this act.

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

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

19 (e) Employees.--

20 (1) An employee of an applicant who has or will have
21 access to video gaming machines must receive and maintain a
22 finding of suitability based on a background check from the
23 Pennsylvania State Police consistent with the provisions of
24 subsection (d).

25 (2) No employee of an applicant shall have access to
26 video gaming machines until such time as the employee has
27 received a finding of suitability from the Pennsylvania State
28 Police.

29 Section 6. Licensed establishment license.

30 The department shall issue a license to any licensed

1 establishment upon showing that its liquor or retail dispenser
2 license is valid and is in good standing with the Pennsylvania
3 Liquor Control Board. The annual fee for a licensed
4 establishment shall be \$500 per video gaming machine.

5 Section 7. Limitations on licensed establishments.

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

8 (1) No licensed establishment may have more than 10
9 video gaming machines.

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

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

15 (b) Unlawful acts.--

16 (1) No licensed establishment shall permit:

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

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

23 (iii) A visibly intoxicated person to play a video
24 gaming machine.

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

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

30 (c) Seizure, forfeiture and destruction of gaming

1 machines.--

2 (1) Gaming machines shall be considered to be per se
3 illegal. Gaming machines and their proceeds may be seized
4 upon view as illegal contraband by agents of the department
5 and any other law enforcement agency.

6 (2) The owner of a gaming machine shall have no right to
7 compensation for the seizure and destruction of a gaming
8 machine or the proceeds of a gaming machine.

9 (d) Penalties.--

10 (1) In the case of a gaming machine seized from a
11 licensed establishment, for a first violation, a penalty of
12 not less than \$1,000 nor more than \$5,000 and a suspension of
13 the licensed establishment owner's liquor license for not
14 less than seven consecutive days and, for each subsequent
15 violation, a penalty of \$15,000 and a suspension of the
16 liquor license for not less than 14 consecutive days.

17 (2) In the case of a gaming machine seized from a place
18 of business other than a licensed establishment, for a first
19 violation, a penalty of not less than \$1,000 nor more than
20 \$5,000 against the owner of the business from which the
21 gaming machine was seized and, for each subsequent violation,
22 a penalty of \$15,000.

23 Section 8. Central computer system.

24 The department shall utilize the central computer system
25 utilized by the State Lottery. All licensed video gaming
26 machines shall be linked to the central computer system at the
27 State Lottery.

28 Section 9. Video gaming machine prototype.

29 (a) General rule.--The department shall develop a prototype
30 video gaming machine that includes hardware and software

1 specifications. The specifications shall include the following
2 provisions:

3 (1) A video gaming machine shall interact with the
4 central computer system.

5 (2) Nonremovable identification plates shall appear on
6 the exterior of the video gaming machine containing the name
7 of the manufacturer and the serial number and model number of
8 the video gaming machine.

9 (3) Rules of play shall be displayed on the video gaming
10 machine face or screen as promulgated by regulation of the
11 department.

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

22 (5) No cash award for any individual game may exceed
23 \$1,000.

24 (6) A video gaming machine shall be designed and
25 manufactured with total accountability to include gross
26 proceeds, net profits, winning percentages and any other
27 information the department requires.

28 (7) A video gaming machine shall pay out a minimum of
29 85% of the amount wagered.

30 (8) A video gaming machine shall contain a prominent

1 sign on the front of the machine with the following
2 statement:

3 If you or someone you know has a gambling problem,
4 help is available. Call (Toll-free telephone number
5 provided by the State).

6 (b) Agreement with Pennsylvania Gaming Control Board.--The
7 department may enter into an agreement with the Pennsylvania
8 Gaming Control Board to develop and verify specifications for
9 video gaming machines.

10 Section 10. Fees.

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

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

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

20 (d) Deposit of fees.--All license fees shall be deposited
21 into the fund.

22 Section 11. Unlawful use by minors.

23 (a) Prohibition.--

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

26 (2) An individual who violates this subsection commits a
27 summary offense.

28 (b) Licensees.--

29 (1) A licensed establishment may not, regardless of
30 knowledge or intent, permit an individual under 21 years of

age to play or use a video gaming machine.

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

Section 12. Inducements prohibited.

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

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

Section 13. Multiple types of licenses prohibited.

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

(b) Operator restriction.--

(1) No licensed operator may:

(i) be licensed as a manufacturer; or

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

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

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

(c) Establishment owner restriction.--No owner of a licensed establishment may be licensed as a manufacturer or operator. An

1 owner of a licensed establishment may only contract with an
2 operator or service technician to place and service equipment.

3 Section 14. Illegal activities.

4 No person may sell, distribute, service, own, operate or
5 place on location a video gaming machine unless the person is
6 licensed under this act and is in compliance with all
7 requirements of this act.

8 Section 15. Distribution of net profits.

9 Net profits shall be calculated by subtracting cash awards
10 from the total consideration played on the machine. The net
11 profits from each video gaming machine shall be distributed in
12 the following manner:

13 (1) Thirty percent to the licensed establishment.

14 (2) Thirty percent to the licensed operator.

15 (3) Forty percent to the fund.

16 Section 16. State Video Gaming Fund.

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

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

22 (c) Deductions.--

23 (1) The department shall determine costs, expenses or
24 payments to be deducted from the fund to the appropriate
25 agency necessary to administer this act.

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

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

30 (i) The costs and expenses to be incurred by the

1 department in administering this act based upon a budget
2 submitted by the department under subsection (d).

3 (ii) The costs and expenses to be incurred by the
4 Pennsylvania State Police and the Office of Attorney
5 General and not otherwise reimbursable under this act in
6 administering, regulating and enforcing this act based
7 upon a budget submitted by the department under
8 subsection (d).

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

15 (d) Itemized budget reporting.--

16 (1) The department, the Pennsylvania Gaming Control
17 Board, the Pennsylvania State Police and the Office of
18 Attorney General shall prepare and annually submit to the
19 chairman of the Appropriations Committee of the Senate and
20 the chairman of the Appropriations Committee of the House of
21 Representatives an itemized budget consisting of amounts to
22 be appropriated out of the fund.

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

30 (3) After determining the appropriate funding based on

paragraphs (1) and (2), the funds shall be appropriated by the General Assembly to the appropriate department or agency.

(e) Funding for compulsive gambling programs.--The department shall allocate at least \$500,000 annually for the purpose of treating compulsive gambling in this Commonwealth. This allocation shall be appropriated out of the fund.

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

Section 17. Preemption of local taxes and license fees.

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

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

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

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

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

(b) Exemption and limitation.--

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

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

Section 18. Exemption from State gaming laws.

Video gaming machines authorized under this act and their use as authorized under this chapter are exempt from 18 Pa.C.S. §

1 5513 (relating to gambling devices, gambling, etc.).

2 Section 19. Exemption from Federal regulation.

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

10 Section 20. Effective date.

11 This act shall take effect in 60 days.