COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

GAMING OVERSIGHT COMMITTEE

STATE CAPITOL
HARRISBURG, PENNSYLVANIA
G-50 IRRIS BUILDING

WEDNESDAY, OCTOBER 30, 2019
9:30 A.M.

BEFORE:

HONORABLE JIM MARSHALL, MAJORITY CHAIRMAN
HONORABLE SCOTT CONKLIN, MINORITY CHAIRMAN

MAJORITY MEMBERS PRESENT:

HONORABLE DONALD COOK
HONORABLE GARY DAY
HONORABLE RUSS DIAMOND
HONORABLE GEORGE DUNBAR
HONORABLE FRANK FARRY
HONORABLE JOSHUA KAIL
HONORABLE AARON KAUFER
HONORABLE THOMAS MEHAFIE
HONORABLE TIM O'NEAL
HONORABLE JASON ORITAY
HONORABLE JUSTIN WALSH
HONORABLE RYAN WARNER

MINORITY MEMBERS PRESENT:

HONORABLE DAVE DELLOSO
HONORABLE BRIAN KIRKLAND
HONORABLE ANITA KULIK

Pennsylvania House of Representatives
Commonwealth of Pennsylvania
(continued)

MINORITY MEMBERS PRESENT:

HONORABLE BRANDON MARKOSEK
HONORABLE JEANNE MCNEILL
HONORABLE ROBERT MERSKI
HONORABLE ED NEILSON
## INDEX

### TESTIFIERS

* * *

<table>
<thead>
<tr>
<th>NAME</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>REPRESENTATIVE MOUL</td>
<td>PRIME SPONSOR OF HB 1598</td>
</tr>
<tr>
<td>KEVIN O'TOOLE</td>
<td>EXECUTIVE DIRECTOR</td>
</tr>
<tr>
<td>R. DOUGLAS SHERMAN</td>
<td>CHIEF COUNSEL</td>
</tr>
<tr>
<td>MAJOR SCOTT T. MILLER</td>
<td>BUREAU OF LIQUOR CONTROL ENFORCEMENT</td>
</tr>
<tr>
<td>TED MOWATT</td>
<td>EXECUTIVE DIRECTOR</td>
</tr>
<tr>
<td>TOM HELSEL</td>
<td>SECRETARY</td>
</tr>
<tr>
<td>JOHN B. GETZ, JR</td>
<td>ADJUTANT/QUARTERMASTER</td>
</tr>
<tr>
<td>KIT D. WATSON</td>
<td>DEPARTMENT ADJUTANT</td>
</tr>
</tbody>
</table>

### SUBMITTED WRITTEN TESTIMONY

* * *

(See submitted written testimony and handouts online.)
PROCEEDINGS

***

MAJORITY CHAIRMAN MARSHALL: (Portion of recording missing) -- from Beaver and Butler Counties. And if we could, starting with Chairman Conklin, introduce ourselves.

MINORITY CHAIRMAN CONKLIN: Scott Conklin, Centre County. In the words of the great lyricist, all we need is love. And I think that's what we can get today from the hearing.

REPRESENTATIVE DUNBAR: George Dunbar, Westmoreland County, 56th District.

REPRESENTATIVE MCNEILL: Jeanne McNeill, Lehigh County.

REPRESENTATIVE MERSKI: Bob Merski, Erie County, 2nd District.

REPRESENTATIVE DELLOSO: Dave Delloso, Delaware County, 162nd District.

REPRESENTATIVE NEILSON: Ed Neilson, Philadelphia County, 174th District -- (inaudible).

REPRESENTATIVE KIRKLAND: Brian Kirkland, Delaware County, 159th District.

REPRESENTATIVE KAUFER: Aaron Kaufer, Luzerne County.
REPRESENTATIVE WARNER:  Ryan Warner, Fayette and Westmoreland Counties, 52nd District.
REPRESENTATIVE KAIL:  Josh Kail, Washington and Beaver Counties, 15th Legislative District.
REPRESENTATIVE O'NEAL:  Tim O'Neal, 48th District and Washington County.
REPRESENTATIVE ORTITAY:  Jason Ortitay, 46th District, Allegheny and Washington Counties.
REPRESENTATIVE DIAMOND:  Russ Diamond, Lebanon County, 102nd district, the only district that counts.
REPRESENTATIVE COOK:  49th District, parts of Washington and Fayette, the Mon Valley, State Rep Don Cook.
MS. WEINER:  Jennifer Weiner, Executive Director for the Republicans.
MINORITY CHAIRMAN CONKLIN:  Now it's time for our new Executive Director on the Democratic side.
MR. BEAVER:  Hank Beaver, Democratic Executive Director for Gamin Oversight.
MAJORITY CHAIRMAN MARSHALL:  Welcome, Hank. It will be fun.
Today we are going to hear from
Representative Dan Moul, the prime sponsor of HB 1598. We'll take some brief remarks from Representative Moul, and then we'll defer questions to the maker of the bill until after we hear from the Gaming Control Board.

Representative Moul.

REPRESENTATIVE MOUL: Thank you. Let me first begin by thanking you, Mr. Chairman and Minority Chairman Conklin for addressing this bill, hearing what's in it. And esteemed colleagues, thank you.

This legislation has really been in the makings for many years. It used to carry the HB number 1313. Somehow this year I missed holding that, putting a holder on that number, but it makes several changes to the Small Games of Chance Act. First, it eliminates the weekly aggregate prize limit on licensed eligible organizations, simplifies the license renewal process for eligible organizations, permits eligible organizations to operate vertical wheels and other new games, allow clubs to retain more small games revenue, other omnibus changes to make small games more profitable, reducing licensing costs, taxes and other burdens
preventing taverns from obtaining a tavern gaming license, but this bill goes even further and allows for skill game machines for those who hold -- which that's a keyword right there -- who hold a small games of chance license or tavern license.

The bill allows up to five games of skill to be located in each organization, club, or tavern, gives authority to the Pennsylvania Gaming Control Board to license manufacturers and distributors and requires the Board to test machines in their lab. Revenue would be distributed as follows: For non-profits, 100 percent of the revenue from skill machines would be used for charitable purposes; for clubs, 60 percent of the revenue would be used for charitable purposes and 40 percent would be retained by the club -- and I believe that's the same percentages that we use on all other small games of chance and private clubs; for taverns, a 50 percent tax and a five percent local share assessment on skill machine revenue.

That one would be a new twist because technically, right now, we don't address these skill games in our small games of chance law. So
a big change in this bill versus HB 1313, that I
carried for years, is the addition of these skill
games, which are basically like slot machines,
but they are showing up everywhere and LCE does
not know how to address them. Even my local
district attorney has a big question mark as to
how to address these.

I will say that you can't make the games
themselves illegal. I'm going to date myself.
Pac-man and Donkey Kong are games of skill. What
we need to get under control is the payoff of
those, a monetary gain by those skill machines.
That's what needs to be brought into -- that act
is what needs to be brought into the Small Games
of Chance Act.

So the community is letting a lot of
money lay on the table, and the Commonwealth is
letting a ton of money, a ton of revenue, lay on
the table by not addressing this. And that being
said, I will end there and say thank you. I know
time is tight, so I will hang around to answer
questions later on and take abuse by
Representative Neilson.

MAJORITY CHAIRMAN MARSHALL: Thank you,
Representative Moul.
REPRESENTATIVE MOUL: Thank you.

MAJORITY CHAIRMAN MARSHALL: At this time, we would like to hear from the Pennsylvania Gaming Control Board. And gentlemen, if you would, introduce yourselves and then begin your testimony. Thank you.

MR. O'TOOLE: Good morning, Chairman Marshall, Chairman Conklin, and members of the Committee. I'm Kevin O'Toole and I serve as the Executive Director for the Gaming Control Board. With me this morning is our Chief Counsel, Doug Sherman.

As you know, the Board serves as the primary regulatory agency for several forms of licensed gaming in the Commonwealth, which now includes slot machines, table games, sports wagering, and on-line gambling products. In addition, the Board has oversight of fantasy sports contests, which are conducted online, and VGT truck stop gaming, which utilizes slot machine-like devices with random number generators, mandated payback percentages, and connections to the Central Control Computer System, which is maintained by the Department of Revenue.
For the most part, activities regulated by the Board constitute legalized gambling, which by definition are games predominated by chance and not skill. Games of skill do not currently fit within the definition of gambling and therefore generally fall outside of the Board's regulatory oversight duties if not explicitly provided for in statute and if not performed by a casino or related licensed online operator.

This distinction between games of chance and games of skill form a crucial line of demarcation between activities that constitute gambling, or not. This distinction stems from the Pennsylvania Supreme Court's decisions relative to what is and is not gambling. The Supreme Court established the predominate factor test to determine if an activity is gambling because gambling is not a defined term under the Crimes Code.

Essentially, the predominate factor test measures the degree of chance and skill that determines the outcome of a particular game. If the outcome of a game in question is 51 percent or greater chance, then the activity is gambling. Correspondingly, if the outcome is based 51
percent or more on skill, it is not gambling. And in Pennsylvania, if gambling has not been authorized, such as casino gaming, the Lottery, small games of chance, etc., then the activity is illegal under Title 18 §5513.

When it comes to games of skill and the Board's experience, Act 42 of 2017 inserted amendatory language to the Gaming Act to add the definition of skill slot machine and hybrid slot machine, which can be placed in a licensed facility. Some would suggest that the General Assembly's inclusion of these terms in the Gaming Act makes the provision of skill or hybrid slot machines, by any entity other than a slot machine licensee, illegal.

Others suggest that the insertion of that language in the Gaming Act simply provides further gaming opportunities for a casino to provide to its patrons and does not alter the legality of the machines if they do not qualify as gambling under Pennsylvania law. To date, this issue has not been subject to a precedential Court ruling, so it remains an issue in need of clarification, either by a precedential court opinion or the General Assembly.
Meanwhile, we all have seen the proliferation of so-called skill-based games throughout the Commonwealth and hear anecdotally of the impact on legalized casino gambling, the lack of player protections, and the unregulated tax-free environment in which they operate. To this end, HB 1598 seeks to impose some degree of regulation in terms of where the skill games can be operated, the level of oversight to be imposed, and a taxing structure to place those games on a somewhat more level playing field with the tax burdens placed on slot machines and VGTs.

I would like to offer a few comments on HB 1598, prefaced by the following: generally, the Board has taken the view that it is the purview of the General Assembly to establish policy. We offer guidance on what we feel is the best way by which to effectively regulate and leave the decision as to whether or not to expand our oversight to the will of the General Assembly and the Governor. Should the Commonwealth provide for the regulation of skill games, and accordingly provide for a role of the Board in the regulation of those games, then the Board would work to implement our duties.
First, the Board supports the removal of the Bureau of Investigations and Enforcement, BIE, from the tavern gaming background investigation as indicated in Sections 902 and 903. Second, HB 1598 places the Board and the BIE in the position of backgrounding and licensing distributors and manufacturers of skill games under the Local Option Small Games of Chance Act. This creates a funding issue as the Board is currently funded through payments by the casino industry and the VGT industry. HB 1598 provides an insufficient funding mechanism to support the background and licensing functions required under the legislation.

Moreover, it would be inherently unfair to require the Board to cover the costs with funds from the other casino and VGT-regulated entities, which in some cases have invested significant amounts of money in the Commonwealth and which may be detrimentally affected by the expansion of skill-based games. Should the General Assembly decide that the Board needs to be involved in the regulation of games of skill, a funding mechanism needs to be established.

Third, HB 1598 provides for annual
renewals for distributors and manufacturers. If the Board is to be involved, the Board would ask that this be changed to five-year renewal terms. Annual renewals drive up the regulatory cost to license holders, as well as to the Board due to the need for additional staff to provide the investigatory and oversight licensing functions. This burden can be mitigated by the change to a five-year renewal term as we apply that same five-year term to other license holders.

In addition, should the renewal period be changed to five years, then the Board would request that distributors and manufacturers have a duty to provide an update to the Board when there has been a material change to the information previously provided or to the business ownership structures or circumstances.

Finally, establishing standards for skill-based games as provided for in this bill can be somewhat illusory. Games of chance contain a random number generator and mandatory payouts to protect the consumer. Those elements are absent in a game of skill. The outcome of games of skill are predicated on the ability or lack of ability of the player with no
predictability, no mandatory payout and no ability to test for fairness to the patron. This is a concern from a player-protection standpoint and a fundamental concern about the current proliferation of skill-based machines throughout the Commonwealth.

Thank you for inviting the Gaming Control Board to testify. And I, along with Chief Counsel Sherman, would be happy to answer any questions that you may have.

MAJORITY CHAIRMAN MARSHALL: Thank you, gentlemen. I know that you have another meeting to get to, but we will take a few questions if members --

REPRESENTATIVE NEILSON: Thank you, gentleman, as always, for coming. So it's your assumption that under Act 42 of 2017, these are defined already, because I mean, that's -- that's something that we put in there in consultation with your Department to make sure that they were defined properly.

MR. SHERMAN: Act 42 adds the definition of a skill-based slot machine and a hybrid based slot machine, one being all skill, the other one being part chance, part skill. What's uncertain
as Executive Director O'Toole testified to was
what the intent of the General Assembly was by
doing that.

Certainly, in the licensed casino
setting, the casino can put hybrid based slot
machines or skill based machines into a casino.
I -- what's -- the gap in there is whether or not
the fact that those machines were included in the
Gaming Act for placement in a casino thereby
renders them illegal gambling machines under
Section 5513 of the Crimes Code.

REPRESENTATIVE NEILSON: Thank you.
Thank you, gentlemen, for coming.
Thank you, Mr. Chairman.

MAJORITY CHAIRMAN MARSHALL: Thank you,
Representative.

Chairman Conklin.

MINORITY CHAIRMAN CONKLIN: Just for the
Gaming Board real fast explain the games of
skill -- if I understand what you're saying,
because I don't play these games -- so if my
understanding of what your saying is that no
matter how good and skillful you are, your payout
is not determined by your skill, but by the --
but by a preset designation within the program
itself.

MR. SHERMAN: No. On a skill-based game, the payout will be determined based upon the skill or lack of skill of the player. If you're just really bad, you're not going to win.

MINORITY CHAIRMAN CONKLIN: Okay.

MR. SHERMAN: If you're really good, you may win a lot. And that's the differentiation with a slot machine or a VGT, which the statute mandates an 85 percent payout, where no matter how good you are or how bad you are, over the course and lifetime of that machine, it's going to pay a minimum of 85 percent back. The -- we can't test the skill based machine for a payback percentage because there is no set payback percentage.

MINORITY CHAIRMAN CONKLIN: That's my question.

MR. SHERMAN: Right.

MINORITY CHAIRMAN CONKLIN: There's no set -- it's just whatever comes up comes up.

MR. SHERMAN: Correct.

MINORITY CHAIRMAN CONKLIN: And just one quick question for the maker. When -- and this is just clarification for myself -- that when you
were talking about the -- when you were talking about the licensing requirement, is -- and I may be reading the bill wrong. Am I reading that only the distributor has to be -- the manufacturer has to be licensed or is both the manufacturer and the distributor or just the distributor has to be licensed in your bill?

REPRESENTATIVE MOUL: Just the distributor.

MINORITY CHAIRMAN CONKLIN: So the manufacturer does not have to be licensed?

REPRESENTATIVE MOUL: No.

MINORITY CHAIRMAN CONKLIN: That's a little disturbing. Thank you.

REPRESENTATIVE MOUL: Thanks.

MAJORITY CHAIRMAN MARSHALL: Thank you.

We will have members coming in and going out as they attend other meetings. And I would like to note that we've been joined by Representative Mehaffie, Walsh, Markosek and Day. And we have a question from Representative Mehaffie.

REPRESENTATIVE Mehaffie: Thank you, Mr. Chairman. Thank you, gentlemen, for testifying today. The question I have is when you go
through the process of locating a casino or an area for gaming, you allow people to come and testify, you allow them to vet this process and go through the process, am I correct on that?

MR. SHERMAN: Yes, that's the local input hearings that we're required to have, both for the initial siting and upon renewals.

REPRESENTATIVE Mehaffie: Right. I think -- and Chairman Moul, I commend you on this. I think you're on the right track as far as where we need to go with this and legalizing it. I'm not sure that small games of chance shouldn't be under you guys. Any kind of gaming should be under you guys. I know you don't want to hear that because of the money restraints, but at the same time, if we're going to go down this road and we're going to be a State of gaming and we have the Gaming Control Board, then the Gaming Control Board should oversee all gaming. The thing that bothers me the most is right now we have skill games that are out there and there's no vetting process on this. They're located -- and I get complaints about it where they're located in convenient stores right outside of churches, you know, outside of schools.
The one thing I do know about small games of chance, a majority of them are already vetted because the small game of chance holders, like the clubs and those bars that have it, have a liquor license. So going through and having a liquor license, you've got to go through the process of being okayed through the Liquor Control Board and liquor enforcement will probably testify on that here very shortly.

But in that process, we have to make sure that we're not putting these games -- any type of gaming games as far as VGTs or whatever -- without having a true vetting process and making sure that the public has the right to intervene and express themselves through this process. So thank you for that. If there's any comment, I'd be willing to hear that.

Thank you, Mr. Chairman.

MAJORITY CHAIRMAN MARSHALL: Thank you, Representative.

REPRESENTATIVE DIAMOND: Thank you, Mr. Chairman.

For the Board, I certainly understand the difficulty in establishing standards because there is no random number generator and there's
no mandatory payout on skill games. Is there any
information from your counterparts in other
States who might have dealt with this situation,
or is this a very unique situation in
Pennsylvania.

MR. O'TOOLE: We have not researched the
matter with other jurisdictions. So our
knowledge is on what we see and observe and read
here in the Commonwealth.

REPRESENTATIVE DIAMOND: But have you
internally speculated as to what you would have
to do to actually establish standards on skill
games in order to regulate them? I mean, we're
not going to hold you to anything here. I mean,
what would you base it on? I mean, if it's not a
random number generator and a mandatory payout.

MR. O'TOOLE: Well, the testing process
is designed to ensure that the machine and all of
its components and component parts work in
accordance with how they're supposed to work.

REPRESENTATIVE DIAMOND: Okay.

MR. O'TOOLE: So we would require a
submission from the manufacturer describing how
this game operates, what actions the player is
required to take and how the machine is required
to respond to those actions. And then the testing process would ensure that it does what it is supposed to do.

REPRESENTATIVE DIAMOND: And that process then would be similar to what you do for games of chance now, correct? In that the manufacturer provides the machine and you test it and you go okay, it does what you say it's going to do?

MR. O'TOOLE: Yes, that's our first step, but on the slot machines that we regulate, there are a series of standards including a theoretical payout percentage that, you know, that the maximum odds don't exceed a certain threshold amount and other components that that theoretical payout percentage is not affected by whether or not the machine offers a progressive payout and to ensure also that each individual slot machine is in what a player -- what a player's ability to play that machine is independent of how the machine next to it plays, that each machine is an independent unit except for the fact that there could be a joint progressive payout.

REPRESENTATIVE DIAMOND: Would you foresee any difficulty on a game -- on testing a machine that's a game of skill because you would
have to have somebody with some skill in order to accurately test it. Do you foresee any difficulty in that, whereas right now, you can just have anybody push a button on a game of chance machine?

    MR. O'TOOLE: Well, the presumption is that hand and eye coordination is going to be important in that skill. And if you know in advance what causes the better payout in terms of hand and skill coordination, our engineers and our statisticians could theoretically, you know, test by using their own skill. Some may be better than others, you know, it's -- it would be a new area for us.

    REPRESENTATIVE DIAMOND: Okay. I appreciate that. Thank you very much, Mr. Chairman.

    MAJORITY CHAIRMAN MARSHALL: Thank you, Representative.

    Representative Ortitay. No question? I see we've also been joined by Representative Kulik. Thank you for being here. If there are no further questions, gentlemen, thank you for your participation today. We appreciate that.
MR. O'TOOLE: Thank you.

MAJORITY CHAIRMAN MARSHALL: Our next presenter is Major Scott Miller with the Pennsylvania State Police and company.

MAJOR MILLER: Good morning, Chairman Marshall and Chairman Conklin. Thank you for having us here today. I'm joined by two of our Captains, and I'll allow them to introduce themselves while I get organized here.

CAPTAIN RINEER: Captain Jeffrey Rineer, Director of Administration Division.

CAPTAIN JONES: Captain James Jones, Director of Operations Division.

MAJOR MILLER: Again, thank you for having us here today. I'm Major Scott Miller of the Pennsylvania State Police. I currently serve as the Director of the Bureau of Liquor Control Enforcement. I appreciate the opportunity to be here today to talk about a subject that is impacting the Commonwealth of Pennsylvania and that is illegal gambling.

As you recall, we met with you in June of this year to discuss a request for assistance with illegal gambling devices and strengthening the law and providing clarity that would not only
aid law enforcement, but would also aid people in the industry, in the liquor industry, and businesses and vendors to provide some clarity to help them with their uncertainty to be in voluntary compliance with the law.

I would like to begin with some opening remarks and then I will be available for questions. However, I must once again add that we have several cases pending in multiple different court systems, so some of my answers to questions may have to be limited.

Illegal gambling is growing in the Commonwealth, outside traditional venues of clubs, restaurants, and bars to convenience stores and shopping malls and storefronts. The gambling devices remain unregulated and unmonitored. The operation of these devices and activities surrounding them are ripe for corruption. There is no consumer protection via a minimum payout rate or return to player or a means to address problem gambling.

There are no safeguards to prevent minors from gambling, such as within our existing licensed casinos. There is no public interest purpose designation of the proceeds as in the
Small Games of Chance Act. There is no
documentation of tax reporting of winners in a --
via a W2-G form.

Clearly, based upon the expansion in the
number of these devices and their venues, there
is an economic loss to legalized gambling and
Lottery through their existence. The
Pennsylvania State Police continue to investigate
illegal gambling in Pennsylvania. As you know,
Pennsylvania legalized gambling, and gambling
activities are specifically authorized by statute
in licensed gambling venues, the Pennsylvania
Lottery, the Small Games of Chance Act, and the
Bingo Law.

The Pennsylvania Superior Court has held
that the term unlawful gambling, as used in
Section 5513 in Title 18, the Crimes Code, refers
to gambling not specifically authorized by the
Commonwealth. This is from a 1975 case before
the Superior Court, Commonwealth v. Betres.

The Pennsylvania Race Horse Development
and Gaming Act provides significant safeguards in
background investigations of key employees,
suppliers, vendors, ownership, pecuniary
interest, etc. Games are regulated by a
Commonwealth agency. Funding for enforcement is included in the Act. No such safeguards exist in these unregulated activities.

We estimate electronic gambling devices, often referred to as skill games, generate $500 per week, per machine. This figure, multiplied by even 2,000 machines, would create one million dollars per week or $52 million dollars per year. We know at least one operator of these devices has more than 10,000 machines currently in operation in the Commonwealth. There are at least five to six different manufacturers of these devices in operation in Pennsylvania, and we anticipate that number to continue to grow.

Recognizing the dollar values associated in these cash transactions, we must also recognize the potential attraction to illegal activities surrounding the operation, placement, and use of gambling equipment and its proceeds. You may have heard these devices are necessary to help support clubs and organizations. The Small Games of Chance Act currently restricts weekly prize amounts, the amount of cash paid out, to $35,000 per week.

During the past two years, the
Pennsylvania State Police Bureau of Liquor Control Enforcement issued citations to 13 licensees throughout the Commonwealth for exceeding the maximum weekly prize amount. Of those 13 licensees, one had 96 weeks in a row where they paid out weekly prize amounts of more than $70,000. Another had 136 weeks in a row where they exceeded the maximum payout.

And of those 136 weeks, 135 of them exceeded the payout by at least double the maximum amount. And in some instances, the maximum payout amount exceeded $105,000, more than triple the amount allowed by law. The Small Games of Chance Act has specifically authorized games, required -- required documentation, and recordkeeping requirements for the purchase and sale of games.

Public interest designation applies to proceeds from these games on a 60/40 split. The Legislature developed threshold amounts, reporting guidelines, and recordkeeping requirements to protect consumers and reduce corruption of the games and their organizations. These alleged skill games vary greatly in the elements they describe as skill. There is no set
definition of a skill game.

I encourage you to actually Google that or query that. Just type in skill game on your phones. It is merely an industry term. They are not small games of chance. There is and will be increased adaptation of the alleged skill elements to traditional gambling activities.

For example, we are already seeing alleged skill elements put onto coin pusher machines and the tweaking of software in existing machines and the development of multi-player games. Can a skill element be added in order to receive a reward to a roulette wheel or a craps table?

These machines meet the definition of a slot machine as legislatively defined in Title 4, The Gaming Act. A slot machine includes a Hybrid Slot machine, both chance and skill; and a Skill based slot machine, primarily skill. The application of Title 4 to address these illegally operated devices is currently awaiting a decision by the Commonwealth Court. Oral arguments were heard on this case in May of 2019. However, we do not know when the court may rule on this issue.
The term slot machine already exists in Title 18, the Crimes Code. If the Legislature were to consider expanding legalized gambling beyond the recent expansion of licensed casinos and video gambling terminals in truck stops, we must consider the amount of varying types of businesses: gas stations, restaurants, shopping malls, convenience stores, strip malls, and social clubs that would be involved, the impact on municipalities opposed to gambling, and the logistics of enforcement in thousands of new gambling parlors throughout the Commonwealth.

What examination is being done of those with a financial interest in the businesses, the vendors, the suppliers, and technicians who operate, place, and have the ability to manipulate the devices?

Many of the concerns associated with this illegal gambling: regulation and policing of activities, strictly monitor and enforce control, limited access, preventing unlawful activities, financial monitoring, public interest for the citizens of the Commonwealth, and the actual -- or the appearance of -- corruption from large campaign contributions, etc., are already
expressed within statute, specifically within the legislative intent of Section 1102 of Title 4.

We anticipate continued market expansion to seemingly promote the legitimacy of these devices through their widespread existence and operation. The Pennsylvania State Police Bureau of Liquor Control Enforcement has been contacted by law enforcement agencies and prosecutors from across the United States. Multiple jurisdictions are experiencing an impact from gambling devices alleging varying degrees of skill to present some form of legitimacy or avoidance from enforcement.

Our request to the Legislature remains consistent: provide prompt clarity to the law, as this will aid business owners in compliance with the law and law enforcement with a more efficient means to prosecute those who continue to violate it. We have and are continuing to prosecute persons and organizations who engage in illegal activities. These prosecutions are lengthy and expensive, but we will continue to investigate and prosecute these crimes.

Before I close, sir, I would like to just add an excerpt from an e-mail we received within the past couple weeks as a result of some
enforcement we took. "Thank you for the work you have done to intervene in the gambling corruption that is occurring at this club. Since under new management in the past year and a half, the veterans are no longer the priority. Their only priority is to swindle as much money as possible from the members. You have done a great thing for the neighborhood by putting an end to their corruption and letting the people in charge know they can't get away with such illegal activities."

Again, that was an excerpt received by the Pennsylvania State Police Bureau of Liquor Control Enforcement after some enforcement we took recently. We will now be available for any questions you may have.

MAJORITY CHAIRMAN MARSHALL: Thank you, Major Miller.

Questions from members?

Representative O'NEAL.

REPRESENTATIVE O'NEAL: Thank you for coming. You know, so one of the things that kind struck me as you presented your testimony is really how adamantly you've -- the position you're taking that these are illegal. And I know
at the end there you talked about continuing to
go after and prosecute, but it strikes me. And
my question to you is, why aren't we doing more?
I mean, we know -- we've had one of the
manufacturing -- manufacturers of these machines
here to testify in front of this Committee. And
I'm just curious as to why we continue, as a
Commonwealth -- if the State Police is taking the
position that these are illegal -- why we're
taking the -- why we're not shutting operations
like that down that are contributing to the
proliferation of these machines.

MAJOR MILLER: It's a very fair question.
The company that -- and I don't want to single
out any company, but since you asked a direct
question -- the company that testified before
this Committee on June 30th, we have a case
pending against, and had a case pending against,
on June 30th. So there are -- I mentioned that
there are about five to six manufacturers in the
Commonwealth.

Within this past year, we've been
successful in forfeiture proceedings in two
separate counties against two of the
manufacturers. One of those cases is on appeal.
We have cases against two other manufacturers that are pending, awaiting this Commonwealth Court decision. Kind of in the interest of judicial economy, we're kind of waiting on that.

If the Commonwealth Court ruling comes out with a decision on Title 4, one way or the other at least, that will give a statewide answer on the application of Title 4 and then the unknown is 5513 of the Crimes Code. I mentioned that slot machine is mentioned within 5513 of the Crimes Code, but there is no definition of a slot machine in 5513 or in the Crimes Code at all. There is a definition -- the only statutory definition of a slot machine currently exists in Title 4, and that includes a hybrid slot machine and a skill-based slot machine.

REPRESENTATIVE O'NEAL: All right. Thank you.

MAJORITY CHAIRMAN MARSHALL: Thanks, Representative.

REPRESENTATIVE NEILSON: Thank you, Chairman. Thank you, gentleman, for coming. It's good to see you again. O'NEAL touched on it. I was wondering about the POM case, where
that's at in its decision because my understanding is it should be coming down real shortly, right?

There's no timeline for --

MAJOR MILLER: There is no timeline. There is a case pending before an administrative law judge, and that case has kind of been stayed and put on hold, awaiting a decision from the Commonwealth Court. So when the Commonwealth Court will come out with their ruling on this decision, I don't know.

REPRESENTATIVE NEILSON: And under your testimony you talked about some other instances where you went in. And if I did my math correctly, like you talked about one case that the prizes were so much money, that one organization was getting over $2 million dollars a year.

MAJOR MILLER: Yeah. So when the Small Games of Chance Act, which is a good thing -- listen, we're not against social clubs and veteran organizations. It's a good thing, and that 60/40 split is a good thing, but we have to recognize, you know, it's the Small Games of Chance Act. At what point is something small? I
mean -- I mean, not to be wise, but at some point it's just going to be the holder ticket that's the element in the Small Games of Chance Act.

So when you start to see monetary values at, you know, $100,000 a week, $70,000 a week, with not many controls, perhaps some of you have been in a community where there's been a large embezzlement from one of your social clubs or organizations, that's devastating to a community. It's just ripe for a lot of inappropriate elements to become involved when you're starting with those kind of monetary transactions.

REPRESENTATIVE NEILSON: Well, thank you again. Thank you, Mr. Chairman.

MAJORITY CHAIRMAN MARSHALL: Thank you, Representative Neilson.

Representative Day.

REPRESENTATIVE DAY: Thank you, Mr. Chairman. Thank you for being here and your testimony. I really appreciate, you know, you giving us your experience to help us establish policy in the Commonwealth. You had mentioned -- you had mentioned -- what was the phrase that you used? I thought I wrote it down. I wrote down notes that say nefarious uses of the cash
proceeds.

So years ago, back gambling out in Las Vegas and everything, law enforcement was always concerned about a criminal element, using that to launder money.

Is that what you were -- you didn't actually come out and say that, but is that what you're talking about?

MAJOR MILLER: So there can be a lot of elements here. So one example is we've seen a number of convenience stores who have built on an entire room to set up a gambling operation. So a lot of times what you'll see is that improvised loan sharking. Hey, we'll give you the money to add on this room. And instead of the 50/50 split, you know, I'm taking all the money. And this week, well, you know, the split is not going to be the same this week. We're going to take a little extra.

Who are the people with that financial interest in these businesses? We don't know. It was something that was set up as part of the Gambling Act, and I'm only going back there because that's a point of reference for us to draw from. If you read through 1102, it spells...
out many of these issues that I'm talking about today. And I'm not talking about that's a perfect act, but I'm saying that's the law, and our job is to enforce the law. And these elements come in and say, hey, I know you need a new roof on your club, so how about I put a new roof on your club and I install machines in your business and I'll just keep taking the money from the machines until the roof is paid for and beyond.

REPRESENTATIVE DAY: You had mentioned a lot of things in your testimony, you know, preventing minors -- there's no component to prevent minors to use this, no aid for addictive gamblers, you know, none of those safeguards in place -- and those are all important things -- but the question I wanted to ask you is do you have access to staff or attorneys that can go through Pennsylvania law, you know, Section 1513--5513, Act 4, I think 1102, and kind of codify what you're thinking in your head from your experience, what your team thinks we should be doing and redefine or, you know, do you have access to a --

MAJOR MILLER: Yes.
REPRESENTATIVE DAY: -- that can do that?

MAJOR MILLER: Yes.

REPRESENTATIVE DAY: Have you done that?

MAJOR MILLER: Yes, yes, and yes. We have done that. And I guess the most simple thing I can say is, our job is to enforce the law. It's the law that's enacted by the General Assembly, signed by the Governor. That's our job. Okay.

Right now, we believe the law as it exists is legalize gambling occurs in the places as I mentioned. The definition of a slot machine in 5513 in Title 18 of the Crimes Code left undefined problematic. We already have a statutory definition of a slot machine in Title 4. Let's incorporate the definition of a slot machine from Title 4 into Title 18. It's the same Commonwealth. It's the same law. It's the same legislature.

REPRESENTATIVE DAY: And I want to make sure you understand -- I totally understand the prime directive is law enforcement and you guys are very kind and humble to say whatever we have is law, but I think you did address it -- what I'm looking for is that experience sometimes, you
know, if you translate it into what statement you just said, that's probably one of the core things, but if there's other things, make sure you forward them to our Chairman so that we can consider it as a Committee.

MAJOR MILLER: We'll be certainly glad to assist in any way with legislation to provide clarity. And I want to stress, not only for law enforcement. I think you're going to hear from some social organizations. I'll bet if you talk with some vendors, a lot of people are just saying, just tell us what the law is and we'll abide by it. We have had many business owners say to us, listen, we agree with you. We think they're illegal. We don't want them in our business, but I'm losing business to this business down the street that has them, so I have no choice but to put them in.

And that's a very -- it's a very, you know, we're telling people it's illegal. We're telling people it's illegal. We're telling people if they operate these machines, they are putting themselves at risk. Many of our investigations are 18 months, 20 months, 24 months investigations.
REPRESENTATIVE DAY: Thank you for your testimony and answer to our questions.

Thank you, Mr. Chairman.

MAJORITY CHAIRMAN MARSHALL: Thank you, Representative. Great questions.

Chairman Conklin.

MINORITY CHAIRMAN CONKLIN: Thank you.

I'm just going to start with a story I'm sure you've heard many times. Because of our jobs, we get to travel the State a lot. And one of the stories I tell my -- I've told the staff and some other folks, one of my favorite stories is I stopped to get gas at a gas station, walked in to pay for it. When I walked in, it was a 6-pack shop, as well. In the corner were five machines with a lady with her child sitting there putting the coins in, with a gentleman next to her with a 6-pack of beer playing a machine -- and all five were full -- and it was 7:30 in the morning.

What law did they break? You can -- you know, you can start down, but this is a more -- this question is more for you to explain to myself and the other legislators. And this is going to show my age. When the illegal slot machines, when you were able to go in and be able
to remove them -- Major, could you just give us a little overview of where they're at today and what it's costing the Commonwealth because we're still storing them, and any ideas that we can do to make sure we don't go down that road again or something we can do to make sure that the taxpayers and you aren't burdened with this.

MAJOR MILLER: Sure. We still do see traditional slot machines and we still do seize them. I will say, typically, it's probably two years until we can get a forfeiture and destruction order. So a lot of our liquor enforcement facilities, we built in extra large evidence rooms to store the machines in. In the Pittsburgh area, for example, we have, I think it's an 80,000 square foot warehouse, additionally, that we lease to store machines in. And there are a lot of, still, these traditional machines. What we're also seeing now is a lot of co-mingling of machines. So there will be a traditional machine. Cherry Master is a common name of a traditional machine, and beside the Cherry Master will be one of these new alleged skill-based machines, in an effort to kind of complicate things for law enforcement.
I want to stress that we have cases against these alleged skill manufacturers and those cases are ongoing. The position of the Pennsylvania State Police is this form of gambling is illegal, but I also want to stress that there are many challenges in presenting the case before the court.

You heard the Gaming Control Board mention 51 percent. That's a very subjective term, and we can wind up with 67 different opinions from common pleas judges throughout the Commonwealth. And it could just be, you know, my opinion may differ from your opinion when we hear the same amount of testimony. So then we get that case, then it has to go through the appeal process. And that's why I'm saying, I think clarity in the law will be a great aid to the citizens of the Commonwealth. And I do think we will see a tremendous amount of voluntary compliance when we get some clarity to the law.

MINORITY CHAIRMAN CONKLIN: Thank you.

Thank you, Mr. Chairman.

MAJORITY CHAIRMAN MARSHALL: Thank you, Mr. Chairman.

Major Miller, thank you so much for your
testimony. We do have one more question, if you could hold on for us.

Representative Mehaffie.

REPRESENTATIVE Mehaffie: Thank you, Mr. Chairman.

Gentlemen, again, thank you for your testimony as always. We talked about two things -- well, one thing I want to talk about is if they are found guilty as far as an illegal machine or illegal gaming or whatever, does that go against their liquor license if they are a liquor license holder.

MAJOR MILLER: Yes. So the criminal offense is a misdemeanor charge. And then during the renewal process, the Pennsylvania Liquor Control Board will evaluate charges and citations against them. We also issue administrative citations against the liquor license for violating another law. So that's how there's sufficient cause shown under the Liquor Code.

The Liquor Control Board has recently, within the past several months, has issued a notice to all liquor license holders that if they're involved in gambling, it will be a consideration before them for the renewal
process, the two-year renewal process on liquor
license.

REPRESENTATIVE MEHAFFIE: Okay. So if a
liquor license is held -- let's just take a
convenience store. So half of the store is
licensed, half of the store is not. If those
gaming machines are in the unlicensed area, okay,
and they are -- or whatever. If there's illegal
gaming found in the unlicensed area, does that --
can it go against the liquor license in the
licensed area.

MAJOR MILLER: Sure. Because of the
ownership of the liquor license.

REPRESENTATIVE MEHAFFIE: Thank you.

Very good. Okay. The other question I had is --
and you mentioned this in the last hearing is
mini casinos. You were concerned about a local
one right around here coming into play where
there were 30-some machines or -- I don't know
the exact number that you mentioned.

Are you seeing that across the State, and
have you been able to act on any of that? Or
what is going on with that.

MAJOR MILLER: We are seeing them across
the State. We have not went in and done a large
seizure at one of these mini casinos in strip malls. I mean, it's openly advertised. You know, it's not uncommon to see it on a sign board out along the highway, you know, games of skill played here. It's right in storefronts, you know, house of skill, that sort of thing. So there is a tremendous proliferation.

And those machines -- you know, there's a lot of talk. One manufacturer has a larger share of the market than some others, and there's a lot of talk, I think, that focuses on that manufacturer, but I want to -- there are multiple manufacturers in the Commonwealth and we're seeing them continue to add, and each of the games are a little bit different.

Going back to my comment about -- and I know I'm a little off your point, but I'm going to circle back around to it. My comment about could I set up a roulette wheel here? I think we all agree roulette is gambling, right? So set up a roulette wheel here, but then you have to play a game of darts and throw it in the bull's eye to get the prize. So you win 1,000, but in order to get your prize, your reward, gambling is consideration money in, chance/randomness of some
act, and a reward, a payout. In order to get your reward, you've got to throw the dart in the bull's eye.

Well, if we're going to go with the argument that that's now not gambling, it's a skill, we can all set that up in our garage tonight. I'm not encouraging you to do that, okay. What we see in those mini casinos is a variety of machines. They're typically not just one manufacturer's machines. So we may go into a machine -- and some manufacturers have different versions of machines.

So we may go into a location like that and we may wind up with 5, 10, 7, 8, 9, 15, different forfeiture proceedings. Two of the cases we've had -- we've paid experts -- one was more than $9,000 and one was $12,000, just for one expert. So what it becomes then is a battle of the experts. Captain Jones who is here with me has been declared an expert in Dauphin County on these gambling cases, but it is an extremely expensive and lengthy legal process.

And to the business owners who are, you know, struggling to pay employees and make ends meet, who have this attractive venue of, hey,
maybe $500 extra a week, that's going to cover a
lot of costs from me, and they're being told,
hey, they're legal, put them in, they're taking
no action, hey, if you wind up going to court,
we'll defend you in court, it's very attractive
to them.

REPRESENTATIVE MEHAFIE: Thank you.
Thank you very much.

Thank you, Mr. Chairman.

MAJORITY CHAIRMAN MARSHALL: Thank you.

Major, I just have a quick question and a
comment. The Representative who spoke about mini
casinos, in your comments with mini casinos -- is
different than a category 4 or mini casino
operated by a casino?

MAJOR MILLER: That's an excellent
question. So I happen to -- that question before
the Gaming Control Board, but I spoke to them.
There are some now established category 4
casinos, but these mini casinos that we're
talking about are not authorized at all by the
Gaming Control Board. They're simply a business
that's been created in a storefront or a location
and it's -- it's unregulated. It's not approved
by any Commonwealth agency. It's just in a
MAJORITY CHAIRMAN MARSHALL: Thank you.

I wanted to make sure we're on the same page. And one quick follow-up question from another member. You mentioned that there are -- a penalty would be a misdemeanor. I've seen legislation that's been proposed that increases that penalty to a felony.

Can you give us any opinion on whether that's too far or if that's a step that's needed?

MAJOR MILLER: It's definitely -- in my opinion, it's definitely not too far. Anything we can do to strengthen deterrents is a positive thing. If the goal is getting compliance with the law, if you have strong deterrents, that should deter people from saying, hey, it's worth the risk for me. You know, that lure of easy money -- to steal a line from an old Glenn Frey song.

You know, if we can say to people that, hey, you're at a great risk here, you're at a great risk of a felony conviction against you or your corporation, which is then probably going to prevent you from getting other licensure in the future, be it a liquor license or be it a
gambling license. So anything we can do to strengthen deterents and provide clarity in the law, we would support.

MAJORITY CHAIRMAN MARSHALL: Thank you, Major. Thank you, Troopers.

Our next testifier is the Executive Director of the Pennsylvania Federation of Fraternal and Social Organizations, Ted Mowatt. Joining Mr. Mowatt is Mr. Tom Helsel, Secretary of the Pennsylvania Association of Nationally Chartered Organizations.

Thank you, gentlemen. And when you're ready, please begin.

MR. MOWATT: Good morning, Mr. Chairman. Chairman Marshall and Chairman Conklin and distinguished members of the House Gaming Oversight Committee. I'd like to thank you for the opportunity to present testimony today on the bill before us today, HB 1598. By way of background, the Pennsylvania Federation of Fraternal and Social Organizations is a statewide association of nearly 500 social clubs, veterans clubs, fire companies and other non-profit service organizations, most of whom hold liquor licenses.
Our clubs provide numerous charitable work in the local communities funded largely by law by small games of chance. Our clubs are constantly struggling to find ways to attract younger members who will take over the essential community activities of the clubs and fire companies in the future, while retaining the existing membership as they age.

Our membership -- our members have in the past supported the updating of the local option Small Games of Chance Act as a way of supporting club activities and have worked with this Committee on many occasions and for many years to that end. The Federation has worked closely with the Committee and its center counterpart over the last decade or longer to pass legislation updating small games of chance and bingo laws, based on the premise that these bills were not an expansion of gambling but a mechanism for these non-profit organizations to increase the amount of money they can raise and contribute to other local charities in their communities.

As we have testified before you before, including earlier this year, for many clubs, dues/revenues have not been able to keep pace
with their structural and other overhead needs of aging facilities, and clubs have been forced to find other ways to attract new members and to keep existing members coming into the club. We fully support, as we have in past sessions, the authorization of additional charitable games, such as the vertical wheel, poker runs, aggressive games, and the skill-based contests referenced in HB 19 -- 1598.

Clearly, some clubs and taverns, as well as other small businesses, have already taken advantage of the popularity of the so-called skill games over the past several years, even as their legality has been in question. These games have far exceeded expectations from a revenue standpoint and joined the recently added lottery games and the overall arsenal of non-dues income for bars, clubs, and first responder organizations among others.

Our member clubs have heard for years that the enforcement would be stepped up on these machines, whether the -- as you just heard, the PSP believed to be illegal as they searched for a friendly jurisdiction to plead a case to overturn the Beaver County ruling. Due primarily to the
lack of clear guidance outside the Beaver County
case, and we agree with the State Police on the
issue that it's unclear as to whether these
machines are in fact legal in the other 66
counties, clubs all over the State report
receiving mixed messages from both the PSP, you
know, LCE, and from the skill game manufacturers
and the vendors themselves.

We applaud Representative Moul's attempt
to clarify the matter and to provide a structure
for legal use, reporting, and revenue
distribution. Although Committee members have
likely heard from local clubs and taverns that
they fully support the authorization of skill
games among the other games added in HB 1598,
many of our club members remain legitimately
concerned that adding those machines at the VFW
or the Moose Lodge small games of chance ticket
sales that lead to their charitable giving, which
is a central part of the mission of most clubs.

Other clubs have indicated that the
presence of a limited number of machines have
actually increased strip ticket play and pull-tab
play as folks wait their turn to pay the skill
games. These clubs consider it a win-win,
literally. The revenue generated by the skill games, which would, under this bill, join the 40 percent retained from small games of chance, will contribute greatly to the maintenance of many clubs and their charitable giving. Still, reaching a consensus among club folks in this diverse State on whether to support skill games, like VGTs, in passion sessions has been difficult. Our board met in June and again in late September to discuss the issue, and the general consensus is that these machines are in fact made legal. Clubs would like to have the right to have them in their bar areas.

With the inclusion of a regulatory structure, which allows the games to be placed in a controlled number of establishments but the gaming Control Board licensing the manufacturers and distributors, as well as the distributors collecting and remitting the taxes, it's a positive step forward, we believe.

As I mentioned in my previous testimony, we're aware of a pending Commonwealth Court case that may further inform this issue in the near future, but in the interim, we would like to work with the Committee and the other stakeholders,
including the State Police, on legislation that makes sense for clubs, bars, for the Lottery, casinos, and for the State coffers.

We fully support the stated purposes of the Gaming Control Act and do not wish to interfere with their revenue streams. The language in Representative Moul's legislation, which would put skill games under the local option Small Games of Chance Act is a little bit confusing since the machines are by definition not games of chance. Nonetheless, we support the structure that both limits the proliferation and distribution of the machines and access to them and welcome the additional help on both the retained and charitable sides of the books on these proceeds.

We appreciate this opportunity to comment on this legislation and will certainly be interested to see how things play out. Thank you for this opportunity, and I would welcome any questions.

MR. HELSEL: Good morning, Chairman Marshall, Chairman Conklin, members of the House Gaming Oversight Committee. My name is Tom Helsel, and I'm the secretary of the Pennsylvania
Association of Nationally Chartered Organizations, or more commonly known as PANCO. PANCO is comprised of individual areas, lodges, and posts from the Fraternal Order of Eagles, Benevolent and Protective Order of Elks, Loyal Order of Moose, American Legion, and Veterans of Foreign Wars. I would like to thank you for the invitation to provide testimony here on HB 1598.

Our members are known for providing charitable works to their local communities. The funds raised for these works are primarily generated through avenues of small games of chance, bingo, and other fundraising activities, such as chicken BBQ's. We have worked over the years to help bring into fruition Act 67 of 1981, the Bingo Law, Act 156 of 1988, the Local Option Small Games of Chance Act, as well as subsequent acts amending these two cornerstones of our fundraising abilities.

Throughout these instances, we have worked with various legislators, legislative committees, and other organizations to improve and enhance our members' ability to provide charitable funding for our local communities. Representative Moul's legislation, HB 1598 -- we
support Representative Moul's legislation, HB 1598, and applaud him for his efforts in this and previous endeavors.

We believe that there are several positive initiatives in this bill that would benefit to our membership, as well as all clubs across Pennsylvania. First and foremost, is the removal of the $35,000 weekly limit, followed by the addition of poker runs, coin auctions, vertical wheel games, event games, and skill machines as authorized games, changes to the amounts retained, and the addition of a special permit for club licensees.

The initial concept of a weekly limit was an arbitrary number applied to the onset of small games of 1988. In 2013, the Legislature increased this limit to $35,000. While many clubs across the State are not impeded by this limit, there is still a segment of the club industry that is. Removal of the weekly limit does not impact the integrity of small games. It simply allows clubs with larger membership resources the ability to find its limit.

There are still regulatory and statutory limits that remain in place to maintain the
integrity of small games, the single prize limits, and the limits applied to the wager amount. The bill adds several new games to the list of authorized games. In each instance, we believe that these additional games compliment our current arsenal of allowed games. The most controversial game added is that of skill games.

While we have advised our members that the PA Department of Revenue and the Pennsylvania State Police have opined that skill games are illegal, there is conflicting advice and evidence that is contrary -- to the contrary. Many of our members have turned to the Pennsylvania skill game as an additional source of revenue, based upon the reliance by vendors and the manufacturer that the game is one of skill, rather than chance.

We believe that placing skill games under the Local Option Small Games of Chance Act would eliminate the confusion that is currently there. It would allow skill games to be utilized by only licensed establishments: clubs, bars and taverns, thus stopping the proliferation into other retail avenues. With regard to the changes in amounts retained, the bill would also allow
all club licensees to retain the first $20,000 in net proceeds. Currently, only those clubs which report $40,000 or less in the previous year's report may retain that amount.

We believe this to be a fair and equitable solution for those clubs which report over $40,000 that do not reach the threshold of that, which corresponds to the 40 percent retained, equaling $20,000. Finally, we support the addition of special permits for club licensees. This would allow clubs to participate in fundraising events done at events within their county, such as community or county fairs. Currently, a club licensee may not offer small games of change at such an event.

Again, I would like to thank you as the Committee for this opportunity and look forward to answering any questions that you may have.

MAJORITY CHAIRMAN MARSHALL: Thank you, gentlemen. If you don't mind, we'd like to defer questions until after the next group, if that's all right.

And if we could hear from representatives from the Pennsylvania American Legion and the Pennsylvania VFW. And gentlemen, when you're
ready, if you'd like to introduce yourselves and then begin your testimony. Thank you.

MR. GETZ: Good morning, Chairman Marshall and Chairman Conklin. My name is John Getz. I'm the Adjutant Quartermaster, past State Commander of Veterans of Foreign Wars. I've held this position for many years. I have held this position for many years. I served this role and I have worked closely with our VFW posts and other veterans' groups and the Legislature on small games of chance issues.

My formal comments about this bill today will be brief, but first, we need to encourage any legislative efforts to open video gaming terminals to non-profit clubs to be separate -- and I will say again, separate -- from the small games of chance legislation. We prefer working on issues in a bill that solely addresses the VGTs -- solely address the VGTs and games of skill, not to attach it to legislation that incorporates proposals for other changes to the current small games of chance law.

One thing I don't have in my testimony here, I just want to let you know that I personally listened to the State Police. And
what my word is when I go out to all of my clubs and all of my organizations, is that they're telling me that these games of skill are illegal. And that's the information that I put out to them. And again, there is nothing being done about it. So at that point, I do know that a lot of them are putting them in. So they'll have to suffer the consequences of whatever happens, whether they become legal or not legal.

As far as the components of HB 1598, specifically proposing increases in the small games of chance allowances, the Pennsylvania Veterans of Foreign Wars fully supports these components. When you consider the tremendous financial and quality of Life impact that donations from veterans' service organizations have on Pennsylvanians from all walks of life, the VFW sees these proposed increases as a win-win situation for everybody: the non-profits, the State Legislature, and citizens across the Commonwealth.

One of the most enjoyable aspects of serving as State Adjutant of the Pennsylvania Veterans of Foreign Wars is witnessing the
amazing ways that the VFW Posts donate to their community and their neighbors. Here are a few examples of the donations from non-profit VFW Posts as have been directed:

• Individuals and families battling cancer and other life-altering diseases, some involving babies and children;
  • Individuals and families whose lives were shattered by accidents and natural disasters;
  • Public safety units, like fire companies, police departments, ambulance companies, who through these donations are better prepared to respond in many ways to serve and rescue the citizens;
  • Non-profit human service organizations that assist the needy, but whose budgets limit in the outreach and support that they can do;
  • Youth activity groups who need donations to provide the resources that they need to help our kids and our teens develop skills to lead enjoyable, responsible lives, who one day will serve our community;
  • Donations to food pantries and other community support programs that help our seniors
and less fortunate persons to receive life
essential support.

The list goes on and on. The need is
there and continues to grow and increase. Small
games of chance is a great way to meet our needs.
Your past support of increasing the prizes and
income limits for small games of chance
operations has touched many thousands of lives,
while helping our non-profits like VFW Posts to
continue operating by using a portion of their
earnings.

We want you to fully grasp the scope of
the positive impact that donations made possible
by small games have made on those that serve you.
We would -- yeah, we want you to appreciate how
the small games of chance earnings that
non-profits can use to keep operating sustain
these community resources as a positive force in
their neighborhoods.

When you allow our VFW Posts and other
non-profits to increase small games of chance
prizes and earnings that they use, you are making
Pennsylvania's 67 counties better places to live.
And you will help grow this source of community
assistance without increasing government budgets
at a local and county or State level. You as State lawmakers have made this possible. Thank you. You can now help to grow the beneficial aspects of small games.

Thank you for allowing the Veterans of Foreign Wars to be a part of this hearing today. I also want to thank each of you for your past support of veterans' organizations and the issues that we pursue to support veterans and their families and to improve the communities in which they live.

Committee members, this is the extent of my formal testimony today. I will be happy to respond to any questions. And thank you for your service to the Commonwealth as a Pennsylvania lawmaker.

MAJORITY CHAIRMAN MARSHALL: Thank you.

MR. WATSON: I'm Kit Watson. I'm the Adjutant for Pennsylvania Legion. I've been in that position for the last 20 years. I've seen a lot of changes in the law and a lot of interactions, both with my counterpart. I would like to clarify something upfront.

The Pennsylvania American Legion, and if I may, the VFW have not belonged to PANCO for
over 10 years. We are separate. We have separate legislative issues and we have not -- we don't speak for them and they shouldn't speak for us.

The history of the small games of chance was last really updated in 2014, where the Act 90 was passed into law. It gave us a lot more control in our clubs and let our -- and let some of our clubs survive. Our current State Commander behind us, his post -- and it was a nice operation -- his post was ready to close its doors because the honest truth is we do not get our revenue from beer and liquor sales anymore. You know, my own personal club -- and I belong out in western Pennsylvania, but I live in Cumberland County here for the last 20 years -- my own personal club sells as much soda and other soft drinks as we do beer and liquor anymore. It's -- you know, it's a different demographic issue than we've had in the decades past.

Small games of chance are a vital part of our organizations. I want you to picture this, if you will. We all belong to a club, the same club. You have an expendable income. I might spend $50 a week on gambling; you might spend
$100. She might spend $200; John here has got the money, he'll spend three or $400. That's -- that's a cumulative number that we can all deal with in our clubs. And under the 60/40 split, that money goes back into the community or stays with the club for their good. That -- those same gamblers -- and I'm talking about our club, all right. We don't have school buses or buses coming up and dropping people off to come in and play bingo or play our small games of chance at our bar or visit our post. We're member-based organizations.

That same dollar is now going into these skill games, and that money, at a rate of 50 to 60 or more percent, is going out the door and never coming back to that community. The vendor is reaping the benefits of that gambling dollar, and there's only X amount of -- if we all belong to the same club and we have that gambling dollar, that's the money that we can work with within our clubs. If you're taking any percentage of that, 50, 60 percent out of it, that's just less money you're going to have to work with overall.

I'm not saying whether you should
legalize those machines or not, but I go along with my counterpart in the VFW. If this is going to go through, we need it as a standalone bill. It's -- the small games of chance is small games of chance. There's no regulation, at least thus far, on these skill games or any other kind of games. And I, back in the '70s, I owned a bar and I had poker machines. And they were illegal. And your counterparts -- the counterparts got me on that on a pretty regular basis, but they were popular.

But small games of chance was a shot in the arm to keep our clubs open. In 2014, we were lucky enough to be included in the -- for the public good category with -- along with the fire halls and the VFW and the other VSOs and we loved that. We appreciate it, and we thank you for that, but we want to see it not changed. You can add something to it, you can put the machines in, you can legalize machines however you want to regulate them, which is a big problem because I'll tell you what's happening -- and the State -- we met with the State Police on occasions, with my counterpart and I. And we told our clubs unequivocally, these are illegal. And I still
tell them that today, they're illegal.

We just had a Legion College with over 600 attendees at it. The machines are illegal, period. Until the Chief Counsel of the LCB tells me they're legal, then they are illegal and you suffer the consequences if you get caught with them.

So we're asking you to keep our small games of chance bill alive on its own and put this gaming bill into another category because it's not small games of chance. It's -- there's no comparisons to the two at all. I would be glad to answer any questions after this, but that's our -- that's our take on it.

MAJORITY CHAIRMAN MARSHALL: Thank you, gentlemen, for your presentation and your service to our residents. And of course, we do have a question for you from Representative Neilson.

REPRESENTATIVE NEILSON: Thank you, gentlemen. Thank you for your testimony. Thank you for your service to our country and all you do for our community. I was very, very happy to hear your testimony today because something I've been hearing for 10 years, being on this Committee, is how much help you need, how much
help you need, and to separate this into a small games of chance bill is perfectly right where we need to go, because like every other slot machine in the Commonwealth, the Commonwealth gets 60 percent of that. Okay. So we will be coming into -- if I have anything to do with it, I want 60 percent of these new slot machines or skill machines you get, I want the Commonwealth to get that. I like how you put it -- and keep it in your neighborhood.

I wanted to ask everybody one general question, we talk about the prize limits maxing out. Do you know a percentage of your clubs that max out, that goes to all four testifiers, is there a percentage that we have on the record that they max out? Because we want to increase that portion.

MR. WATSON: If I may -- and I don't want to complicate things, but we have clubs that are -- we have 700 posts in the Commonwealth, about 540 of them have liquor licenses. That's just for the American Legion. Out of those clubs, I have clubs with 50, 60, 100 members. We also have, right down in Shiloh, they've got 2400 regular members. That doesn't count their
auxiliary and sons. That's just their Legionnaires in that club.

You're putting the threshold on all clubs at $35,000 a week. We have clubs that don't do $35,000 in three months. So there are clubs that do well, but the percentage, I think, to be a little more fair, it would be nice if they would increase it to -- and I don't have the percentage. I'll bet you the Pennsylvania State Police have that better figure than I do. Our clubs don't report. Our clubs are autonomous. They don't report to us as long as they don't get in trouble with the law, then we don't hear much about it.

But the ratio of members to the $35,000 is pretty relevant because we have clubs that don't do that in three months. We have clubs that do that in a week, so --

REPRESENTATIVE NEILSON: The State Police had some alarming numbers, at $2 million dollars a year some of these clubs making.

MR. WATSON: I heard that.

MR. GETZ: Just lucky to be a post --

REPRESENTATIVE NEILSON: My club doesn't do that. I was just wondering -- and I'm in
Philadelphia, so I don't know.

MR. WATSON: Mine doesn't either.

MR. GETZ: On the Veterans of Foreign Wars, we only have some of the -- but larger clubs, I hear they hit the $35,000, but I hope they stop. A couple of them, I heard they do stop it. And the State Police can tell you, some of them don't stop it.

REPRESENTATIVE MOUL: If I may chime in here, I belong to five clubs. I live in the heart of private club country.

REPRESENTATIVE NEILSON: Can you say your name for the record, sir?

REPRESENTATIVE MOUL: You know what my name is.

This gentleman is pretty much hitting the nail on the head. That is -- the percentage that go over $35,000 is relative to the size of the club. All five of the clubs I belong to have several thousand members; one has over five. They'll blow through $35,000 a payout on Sunday during football, especially if it's raining outside or cold. It's just what they do, playing strip tickets.

And I will tell you, the club that I'm
thinking about, which I will not name, has at least five of these machines sitting side by side. Since they are not in the Small Games of Chance Act, they feel that they are outside of it and zero amount of the money goes back to the community. The strip tickets do. The punch boards do.

REPRESENTATIVE NEILSON: Yeah, but in the same sense, 60 percent of that dollar -- sixty cents on that dollar that's put in, as we heard testimony before, is going to the vendor. So I mean, I'm just putting it into perspective, Representative.

REPRESENTATIVE MOUL: I'm not here to tell you where that money goes.

REPRESENTATIVE NEILSON: Okay.

REPRESENTATIVE MOUL: I'm just going to tell you that that money is not included in the money that they divide up, where 40 percent they keep and 60 percent goes to the community. The strip tickets and punch boards, yes. That money they look at as these aren't in the Gaming Act, therefore, we don't have to follow those rules with those machines.

But what they do now, and this is
something that the LCE certainly knows about, they just can't do anything about it, is I have clubs that hit that $35,000 dollar limit and then they'll bring in other outside organizations, non-profits, they'll put their license on the shelf for the day and let them sell and charge them a fee to be in their club selling off of their license. And that's how they're doing it.

Nothing illegal about it, it's just a little loophole to get around the law. But the bottom line is, they do this to give back to its own community. It's a very foolish arbitrary number that somebody picked years ago to say, oh, we want you to raise money for the community, but we will not let you raise more than this. Why would we do that?

MAJORITY CHAIRMAN MARSHALL: Thank you, members.

MR. WATSON: Yeah, I don't have much to add to that. We've had the same experience with our members, you know, some of them are bigger clubs and they run over and other ones, like was referred to, don't get it for months. And again, I made the statement several years ago to this Committee, I think the State Police have better
things to do than worry about how much money 
clubs are raising for charity. And I think that 
that's, you know, going to become -- part of 
getting rid of the limits is adding new games is 
going to generate new revenue. That's the point 
of this, and the community effect is going to be 
greater as both of these gentlemen referred.

MAJORITY CHAIRMAN MARSHALL: Thank you, 
gentlemen. Thank you, members. Also, thank you 
and welcome again to Executive Director Hank 
Beaver. I'm sure you'll have some interesting 
times with the Committee.

At this time, this meeting is adjourned. 
Thank you.

(Whereupon, the hearing concluded at 
10:52 a.m.)
CERTIFICATE

I hereby certify that the proceedings are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.

Tracy L. Markle, Court Reporter
Notary Public