

Pennsylvania State Police Testimony
Electronic Gambling Devices
House Gaming Oversight Committee
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Presented by:
Major Scott T. Miller
Pennsylvania State Police

Good morning, Chairmen Marshall and Conklin, and members of the House Gaming Oversight Committee. I am Major Scott Miller of the Pennsylvania State Police (PSP), and I currently serve as the Director of the Bureau of Liquor Control Enforcement (BLCE). Joining me today is Captain James Jones, Operations Division Director, and Captain Jeffrey Rineer, Administration Division Director. Thank you, once again, for the opportunity to appear before you today to discuss enforcement involving illegal electronic gambling devices, and to take part in the conversation about strengthening our ability to enforce prohibitions against illegal, unregulated gaming.

I would like to begin with some opening remarks and then I will be available for questions; however, I must note, we continue to have cases pending in multiple courts, so some of my responses may be limited.

As mentioned in previous testimony before this committee, illegal gambling is growing in the Commonwealth, outside traditional venues of clubs, restaurants, and bars to conveniences stores, shopping malls, and store fronts.

These gambling devices remain unregulated and unmonitored. The operation of these devices and the activities surrounding them are ripe for corruption. There is no consumer protection, via a minimum payout rate - return to player, or 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, 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.” *Commonwealth v. Betres*, 237 Pa. Super 361, 368 (1975).

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

We estimate electronic gambling devices, often referred to as “skill games,” generate \$500.00 per week per machine. This figure, multiplied by even 2,000 machines, would create \$1 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 5 to 6 different manufacturers of these devices in operation in Pennsylvania and we anticipate that number to continue to grow.

Recognizing the dollar values involved in these cash transactions, we must also recognize the potential attraction to illegal activities surrounding the operation, placement, and use of this 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 \$35,000.00 per week. During the past two years, the Pennsylvania State Police, Bureau of Liquor Control Enforcement, issued citations to thirteen licensees throughout the Commonwealth for exceeding the maximum weekly prize amount. Of those thirteen licensees, one had 96 weeks in a row where they paid out weekly prize amounts of more than \$70,000.00. Another had 136 weeks in a row where they exceeded the maximum payout. Of those 136 weeks, 135 of them exceeded the payout by at least double the maximum amount. In some instances, the maximum weekly payout amount exceeded \$105,000.00, more than triple the amount permitted by law.

The Small Games of Chance Act has specifically authorized games, required documentation, and record keeping 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 record keeping 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 what is being called a “skill game”, it is merely an industry term. They are not Small Games of Chance. There is and will be increased adaptation of alleged skill elements to traditional gambling activities. For example, we are already seeing alleged skill elements put onto coin pusher machines, 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 from 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 the 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 station, restaurant, shopping mall, convenience store, strip mall, social club) 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, 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 monitored and enforced control, limited access, preventing unlawful activities, financial monitoring, public interest for the citizens of the Commonwealth, and the actual or 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 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.