



House Gaming Oversight Committee

September 21, 2022

Chair Helm, Chair Harkins, and members of the committee, thank you for this opportunity to offer feedback on diesel gallonage requirements for video gaming terminals at truck stop establishment locations.

My name is Christopher Reed and I am General Counsel for the Rutter's Companies. Rutter's is an 11th Generation family-owned company that traces its operations in central Pennsylvania to 1747. Rutter's owns and operates 82 convenience stores with 78 being in Pennsylvania. In addition to its convenience stores, Rutter's operates a beverage company, including a fluid dairy, and a real estate company. Rutter's employs approximately 2,300 Pennsylvanians. All Rutter's companies are Pennsylvania C-corporations and pay their full share of Pennsylvania corporate taxes.

Video gaming terminals, or "VGTs", were authorized in 2017 to be placed in qualifying truck stop establishments. In 2019, Rutter's was the first location in the Commonwealth offering VGTs. Rutter's currently operates 19 locations in Pennsylvania that are licensed establishments hosting VGTs. Introduction of VGTs has been a positive for the Commonwealth, licensed establishments and operators, and Pennsylvania citizens. There are, however, changes to the law that would improve the VGT industry.

As you are aware, the gaming industry is a highly-regulated one and VGT is not an exception. Rutter's corporate structure, owners, officers, and key employees are subject to extensive regulation and licensing by the Pennsylvania Gaming Control Board ("PGCB"). Additionally, each Rutter's VGT location is subject to separate regulation and licensing both on an operations side, as well as a personnel side. VGT locations must meet and maintain certain minimum requirements in order to be approved as a qualifying establishment. Such criteria include operation of a convenience store, minimum acreage, minimum number of commercial parking spaces, and minimum diesel sale volumes.

The Commonwealth receives 52% of the revenue generated by VGT operations. Based upon PGCB revenue reports, the Commonwealth received over \$21 million in revenue in Fiscal Year 2021/2022 from 66 VGT locations. The revenue generated is distributed to the general fund as well as a percentage being dedicated to the Commonwealth Financing Authority. Promoting a robust VGT industry in turn benefits the Commonwealth with increased tax revenue. Further, the Pennsylvania lottery is not negatively affected by VGT. In fact, it is the exact opposite. At Rutter's

VGT locations, there has been a positive growth rate of lottery sales, which results in increased revenue to the Pennsylvania Lottery.

Pennsylvania citizens also benefit from VGT by having enhanced available entertainment and consumer choice. Many VGT locations offer entertainment for individuals that would otherwise have to travel a significant distance, including out of state. This travel is either a barrier to an individual partaking in legal gambling activity or, in the case of travel out of state, results in lost revenue for the Commonwealth. Additionally, VGT offers commuters through Pennsylvania an option for entertainment during a travel break.

As briefly noted above, there are numerous requirements an applicant must meet to qualify as a truck stop establishment licensee.¹ In fact, Pennsylvania has some of the most restrictive requirements for truck stop gaming in the entire country. For instance, Pennsylvania requires that a truck stop establishment sell an average of 50,000 gallons of diesel per month every twelve (12) months. Contrast that with other states that have no diesel sales requirements, or lower diesel sales requirements.

Rutter's supports Representative Grove's proposed legislation to eliminate the diesel sales requirement. To echo Representative Grove's co-sponsor memo, Rutter's is unaware of any other license issued by the Commonwealth that is dependent upon sales performance of the licensee. Certainly, the holder of a license should have control over its ability to receive and maintain the license. Meeting the diesel requirement is not within the control of a truck stop establishment. For example, the current shortage of diesel product in the United States and worldwide is a rapidly growing problem.² Truck stop establishment licensees have no control over the production and supply of diesel fuel to the market. Shortages in product and/or demand could lead to a truck stop establishment falling below the 50,000 gallon per month average threshold through no act of the truck stop establishment. In the event of failing to meet the gallonage requirement, the license may be subject to an enforcement action and revocation by the PGCB.

The elimination of the diesel gallon sales requirement would not lead to unchecked expansion of VGT locations. The remaining requirements for licensure as a truck stop establishment present a

¹ To qualify as a truck stop establishment a location must be a premise that:

1. Is equipped with diesel islands used for fueling commercial motor vehicles
2. Has sold on average 50,000 gallons of diesel or biodiesel fuel each month for the previous 12 months or is projected to sell an average of 50,000 gallons of diesel or biodiesel fuel each month for the next 12 months
3. Has at least 20 parking spaces dedicated for commercial motor vehicles
4. Has a convenience store
5. Is situated on a parcel of land of not less than three acres that the truck stop establishment owns or leases
6. Is not located on any property owned by the Pennsylvania Turnpike
7. Is a licensed lottery sales agent under Section 305 of the act of August 26, 1971, known as the State Lottery Law

² See <https://www.reuters.com/markets/us/us-diesel-shortage-shows-economy-hitting-capacity-limit-2022-08-04/>; and <https://www.bloomberg.com/news/articles/2022-08-25/diesel-pinch-looms-as-world-seeks-relief-from-pricey-natural-gas>

significant barrier to wide-spread VGT expansion. Diesel islands used for fueling commercial vehicles are not available at the vast majority of fueling stations in Pennsylvania.³ Of the few locations offering diesel islands for commercial vehicles, a majority of them fail to meet one or more other requirements for licensure. Many of the locations are not situated on three (3) acres of land. Others do not have a convenience store. Not all locations offer the required twenty (20) parking spaces for tractor trailers. Further, at least 50 otherwise qualifying locations are excluded because they are located on Pennsylvania Turnpike property or in counties or municipalities that prohibit the placement of VGTs. Finally, it is unclear whether qualifying locations would be eligible for licensure by the PGCB if they hosted or currently host skill games.⁴ Taking all of these exclusions into account, it is estimated that less than fifty locations would meet the licensing criteria as a truck stop establishment. That estimate does not take into account the extensive licensing requirements on corporate structure, owners, officers, key employees, and establishment employees, which would likely reduce the number of applicants and, in turn, reduce the potential for increased VGT locations.

Removal of the diesel sale volume requirement make sense to support the existing VGT industry, while maintaining barriers to prevent uncontrolled gaming expansion. The VGT industry provides jobs to Pennsylvania workers, entertainment to Pennsylvania citizens, and revenue to Pennsylvania. Rutter's is excited about the opportunity to work with the legislature on language to improve the VGT industry in a safe and efficient manner.

³ There are only approximately 250 – 280 locations in Pennsylvania offering diesel islands for commercial vehicles. (See: <https://www.truckstopsandservices.com/listcatbusinesses.php?id=19&state=39>)

⁴ Part of the investigation into an applicants suitability for licensure as a truck stop establishment includes the PGCB's Bureau of Investigation and Enforcement inquiring whether the applicant hosts skill games at the location in question, or at any other location the applicant operates