

LOCAL OPTION SMALL GAMES OF CHANCE ACT - OMNIBUS AMENDMENTS

Act of Nov. 27, 2013, P.L. 1045, No. 90

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Session of 2013

No. 2013-90

HB 1098

AN ACT

Amending the act of December 19, 1988 (P.L.1262, No.156), entitled, as amended, "An act providing for the licensing of eligible organizations to conduct games of chance, for the licensing of persons to distribute games of chance, for the registration of manufacturers of games of chance, and for suspensions and revocations of licenses and permits; requiring records; providing for local referendum by electorate; and prescribing penalties," further providing for definitions, for games of chance permitted, for distributor licenses, for major league sports drawing, for club licensee, for distribution of proceeds, for records and for raffle tickets; providing for background checks; further providing for enforcement; providing for tavern gaming and for a host municipality tavern games tax; establishing the Host Municipality Tavern Games Local Share Account; providing for a report of the Legislative Budget and Finance Committee; and making an editorial change.

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

Section 1. Section 102 of the act of December 19, 1988 (P.L.1262, No.156), known as the Local Option Small Games of Chance Act, amended February 2, 2012 (P.L.7, No.2), is amended to read:

Section 102. Legislative intent.

The General Assembly hereby declares that the playing of games of chance for the purpose of raising funds, by certain nonprofit associations, for the promotion of charitable or civic purposes, is in the public interest. In some cases, the proceeds from games of chance may be utilized to support certain operating expenses of certain organizations.

**The General Assembly hereby declares that raising public funds from games of chance in licensed restaurants and protecting the competitiveness of these restaurants is also in the public interest.**

It is hereby declared to be the policy of the General Assembly that all phases of licensing, operation and regulation of games of chance be strictly controlled, and that all laws and regulations with respect thereto as well as all gambling laws should be strictly construed and rigidly enforced.

The General Assembly recognizes the possibility of association between commercial gambling and organized crime, and wishes to [discourage commercialization of games of chance,] prevent participation by organized crime and prevent the diversion of funds from the purposes herein authorized.

Section 1.1. The introductory paragraph and the definitions of "games of chance," "major league sports drawing," "major league sports team" and "proceeds" in section 103 of the act, amended or added February 2, 2012 (P.L.7, No.2) and October 24, 2012 (P.L.1462, No.184), are amended and the section is amended by adding a definition to read:

Section 103. Definitions.

The following words and phrases when used in this act shall, **except as provided under section 902**, have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

"Games of chance." Punchboards, daily drawings, weekly drawings, 50/50 drawings, raffles, **tavern games** and pull-tabs, as defined in this act, provided that no such game shall be played by or with the assistance of any mechanical or electrical devices or media other than a dispensing machine or passive selection device and further provided that the particular chance taken by any person in any such game shall not be made contingent upon any other occurrence or the winning of any other contest, but shall be determined solely at the discretion of the purchaser. This definition shall not be construed to authorize any other form of gambling currently prohibited under [any provision of Title] 18 [of the Pennsylvania Consolidated Statutes] **Pa.C.S.** (relating to crimes and offenses) or authorized under 4 Pa.C.S. (relating to amusements). Nothing in this act shall be construed to authorize games commonly known as "slot machines" or "video poker."

\* \* \*

"Major league sports drawing." [A 50/50 drawing conducted by an affiliated nonprofit organization at a home game of a major league sports team in which 50% of the money collected from ticket sales from the drawing are offered as the prize and the remaining 50% is retained by the affiliated nonprofit organization sponsoring the drawing for distribution to charitable organizations.] **A 50/50 drawing conducted by a nonprofit affiliate of a major league sports team in accordance with section 304.1.**

"Major league sports team." [A professional team that is a member of Major League Baseball, the National Hockey League, the National Basketball Association or Major League Soccer.] **A sports team or racing facility that is any of the following:**

(1) **A member of Major League Baseball, the National Hockey League, the National Basketball Association, the National Football League or Major League Soccer.**

(2) **A professional sports team affiliated with a team under paragraph (1).**

(3) **Any other professional sports team that has a sports facility or an agreement with a sports facility to conduct home games at the facility.**

(4) **A stadium, grandstand or bleacher at a closed-course motor facility where spectators are directly observing motor races with NASCAR, Indy, stock or drag racing cars.**

\* \* \*

"Proceeds." The difference between:

(1) the actual gross revenue collected by a licensed eligible organization, **or a licensee under Chapter 9**, from a game of chance; and

(2) the actual amount of prizes paid by a licensed eligible organization, **or a licensee under Chapter 9**, from a game of chance, plus the cost to purchase games of chance.

\* \* \*

**"Tavern games." Pull-tabs, tavern daily drawings and tavern raffles.**

\* \* \*

Section 1.2. Section 301 of the act, amended October 24, 2012 (P.L.1462, No.184), is amended to read:  
Section 301. Games of chance permitted.

Every eligible organization to which a license has been issued under the provisions of this chapter may conduct games of chance for the purpose of raising funds for public interest purposes. Except as provided in Chapter 5, all proceeds of a licensed eligible organization shall be used exclusively for public interest purposes, for the purchase of games of chance[,]  
**or** for the payment of the license fee [or for the payment of the fee for background checks], as required by this act.

Section 1.3. Section 304(a) of the act, amended February 2, 2012 (P.L.7, No.2), is amended to read:  
Section 304. Distributor licenses.

(a) License required.--No person shall sell, offer for sale or furnish games of chance to eligible organizations licensed under this chapter **or licensed under Chapter 9** unless such person shall have obtained a distributor license as provided in this section.

\* \* \*

Section 1.4. Section 304.1(c) and (f) of the act, added October 24, 2012 (P.L.1462, No.184), are amended and the section is amended by adding subsections to read:  
Section 304.1. Major league sports drawing.

\* \* \*

(b.2) Charitable event.--A major league sports drawing may be conducted by the affiliated nonprofit organization during a charitable event held within the same arena, stadium, grandstand, bleachers or other facility during a home game or car race of the major league sports team. Drawings may only be held within spectator areas within the arena, stadium, grandstand or bleachers where the home game or car race is being conducted and not at ancillary areas or facilities, including parking areas, restaurants and bars or areas outside the arena, stadium, grandstand or bleachers or areas where the sport is shown on remote electronic equipment.

(c) Distribution.--The prize amount of a major league sports drawing shall be 50% of the total amount collected from the sale of major league sports drawing tickets. [The] **Except as set forth in subsection (c.1), the** other 50% of the total amount collected from the sale of major league sports drawing tickets shall be donated within seven days from the date of the drawing by the affiliated nonprofit organization conducting the major league sports drawing to [a] **one or more** designated charitable [organization] **organizations** for which the drawing was conducted.

(c.1) Use of funds.--

(1) The affiliated nonprofit organization may utilize nonprize money collected for the following:

(i) To employ or provide payment to individuals 18 years of age or older to sell major league sports drawing tickets at a professional sporting event.

(ii) For administrative expenses directly related to the conduct of the drawing under this section.

(2) Authorized expenses under paragraph (1)(ii) may not exceed 2% of the total amount collected from the sale of major league sports drawing tickets.

\* \* \*

(f) Unclaimed prizes.--Any major league [baseball] sports drawing prize remaining unclaimed by a winner at the end of the major league sports team's season shall be donated within 30 days from the end of the season by the affiliated nonprofit organization to the designated charitable organization for which the major league sports drawing was conducted.

\* \* \*

(h) **Additional recordkeeping.--The department may require additional recordkeeping or accountability measures for major league sports drawings.**

Section 2. Sections 501(a), 502 and 503 of the act, added February 2, 2012 (P.L.7, No.2), are amended to read:  
Section 501. Club licensee.

(a) Report.--

(1) Beginning in [2013] **2014**, a club licensee **with proceeds in excess of \$20,000 in a calendar year** shall submit [semiannual] **annual** reports to the department for the preceding [six-month] **12-month** period on a form and in a manner prescribed by the department.

(2) The report **under paragraph (1)** must be filed under oath or affirmation of an authorized officer of the club licensee[.

(3) The report] **and** shall include all of the following information:

(i) The proceeds received by the club licensee from each game of chance conducted, itemized by week.

(ii) The amount of prizes paid from all games of chance, itemized by week.

(iii) Other costs incurred related to the conduct of games of chance.

(iv) [The verification] **Verification and itemization** of amounts distributed for public interest [purposes itemized under section 502(a)(1), itemized by the recipient].

[(v) An itemized list of expenditures made or amounts retained and expenditures under section 502(a)(2).

(vi) The address and the county in which the club licensee is located.]

(vii) Other information or documentation required by the department.

\* \* \*

Section 502. Distribution of proceeds.

(a) Distribution.--The proceeds from games of chance received by a club licensee shall be distributed as follows:

(1) No less than [70%] **60%** of the proceeds shall be paid [to organizations] for public interest purposes [in the calendar year in which] **within one year of the end of the calendar year in which** the proceeds were obtained.

(2) No more than [30%] **40%** of the proceeds obtained in a calendar year may be retained by a club licensee [and used for the following operational expenses relating to the club licensee:

(i) Real property taxes.

(ii) Utility and fuel costs.

(iii) Heating and air conditioning equipment or repair costs.

(iv) Water and sewer costs.

(v) Property or liability insurance costs.

(vi) Mortgage payments.

(vii) Interior and exterior repair costs, including repair to parking lots.

(viii) New facility construction costs.

(ix) Entertainment equipment, including television, video and electronic games.

(x) Other expenses adopted in regulation by the department].

(a.1) Amounts retained.--

(1) Notwithstanding subsection (a), if in a calendar year beginning January 1, 2013, the proceeds from a game of chance for a club licensee are \$40,000 or less, the licensee shall be eligible to retain the first \$20,000 in proceeds in the following calendar year before subsection (a) applies.

(2) Amounts retained by a club licensee under subsection (a)(2) shall be expended within [the same calendar year] **one year of the end of the calendar year in which the proceeds were obtained** unless the club licensee notifies the department that funds are being retained for a substantial **public interest** purchase or project. [Notification shall include a description of the purchase or project, the cost and the anticipated date of the purchase or project.]

(b) Prohibition.--

(1) Proceeds shall not be used [for wages, alcohol or food purchases or] for the payment of any fine levied against the club licensee.

(2) An officer or employee of a club licensee who operates the game of chance shall not participate in the game. This paragraph shall not apply to a raffle.

Section 503. Records.

A club licensee shall maintain records as required by this act or by the department, including invoices for games of chance purchased. Records necessary to [conduct an audit under section 702(b)] **enforce this act or to conduct random audits** shall be made available to the Bureau of Liquor Control Enforcement, **the department** or any other entity authorized to enforce **or conduct audits under** this act.

Section 3. Section 504 of the act, added February 2, 2012 (P.L.7, No.2), is repealed:

[Section 504. Raffle tickets.

A club licensee shall maintain records relating to the printing or purchase of raffle tickets. Records shall include a receipt or invoice from the place of purchase that shows the cost and number or amount of tickets purchased.]

Section 4. Section 702(b) and (c) of the act, amended February 2, 2012 (P.L.7, No.2) and October 24, 2012 (P.L.1462, No.184), are amended to read:

Section 702. Enforcement.

\* \* \*

(b) Bureau of Liquor Control Enforcement.--If the licensee is a club licensee **or a licensee under Chapter 9**, the Bureau of Liquor Control Enforcement may enforce the provisions of this act in accordance with subsection (g). An administrative law judge under section 212 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, may impose the penalties under subsection (d) following the issuance of a citation by the bureau.

(c) Random audits.--The [Bureau of Liquor Control Enforcement] **department** shall conduct annual random audits of 5% of all club licensees.

\* \* \*

Section 5. The act is amended by adding a chapter to read:

#### **CHAPTER 9**

#### **TAVERN GAMING**

Section 901. Scope of chapter.

This chapter relates to tavern gaming.

Section 902. Definitions.

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

"Applicant." The person applying for a license under this chapter. The term includes each owner and officer of the tavern where tavern games will be conducted and of the holder of the liquor, malt or brewed beverage license under the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

"Board." The Pennsylvania Liquor Control Board.

"Bureau." The Bureau of Investigations and Enforcement of the Pennsylvania Gaming Control Board.

"Grocery store."

A retail establishment, commonly known as a grocery store, supermarket or delicatessen, where food, food products and supplies are sold for human consumption on or off the premises. The term shall include a restaurant with an interior connection to, and the separate and segregated portion of, any other retail establishment which is dedicated solely to the sale of food, food products and supplies for the table for human consumption on or off the premises.

"Host municipality." A municipality with one or more taverns licensed to conduct tavern games.

"License." A license to conduct tavern games under this chapter.

"Licensee." A person that holds a license under this chapter.

"Net revenue." As follows:

(1) For tavern games required to be purchased from a licensed distributor under this act, the difference between:

(i) the face value, as indicated by the manufacturer, collectible by a licensee from a tavern game; and

(ii) the maximum amount of prizes payable, as indicated by the manufacturer, by a licensee from a tavern game.

(2) For tavern games not required to be purchased from a licensed distributor, the term has the same meaning as proceeds.

"Restaurant licensee." A for-profit hotel, restaurant, privately owned public golf course, brewpub or microbrewery licensed to sell liquor under the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code. The term does not include any of the following:

(1) A grocery store.

(2) A premises where the sale of liquid fuels or oil is conducted.

"Tavern." A for-profit hotel, restaurant, privately owned public golf course or brewpub or microbrewery with a valid license to sell liquor, malt or brewed beverages under the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code. The term does not include any of the following:

(1) A grocery store.

(2) A restaurant where the sale of liquid fuels or oil is conducted.

(3) A hotel or restaurant whose place of business is located in a licensed facility as defined in 4 Pa.C.S. § 1103 (relating to definitions).

(4) A business on the grounds of a facility where a Major League sports team conducts games or races.

"Tavern daily drawing." A game in which:

(1) an individual at a tavern selects or is assigned a number for a chance at a prize with the winner determined by random drawing to take place at the tavern during the same operating day;

(2) a winner may be determined with the aid of a passive selection device or reference to drawings conducted by the department under the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law;

(3) chances are not sold for an amount in excess of \$1; and

(4) no more than one chance per individual is sold per drawing.

"Tavern raffle." A raffle held in part for a charitable or public purpose in accordance with section 908.1.  
Section 903. Licenses.

(a) Application.--A restaurant licensee may apply to the board for a license to conduct tavern games at a licensed premises located in a municipality that has adopted a referendum to allow small games of chance under section 703.

(b) Information.--The application under subsection (a) shall include the following information:

(1) The name, address and photograph of the applicant.

(2) A current tax lien certificate issued by the department and a certificate from the Department of Labor and Industry of payment of all workers' compensation and unemployment compensation owed.

(3) The details of any license issued under 4 Pa.C.S. Pt. II (relating to gaming), the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, or this act which was applied for or in which the applicant or other owner has an interest.

(4) Certified consent by the applicant, including each owner and officer of the restaurant licensee, to a background investigation by the bureau.

(5) Relating to criminal information, disclosure of all arrests and citations of the applicant, including nontraffic summary offenses. The information shall include all of the following:

(i) A brief description of the circumstances surrounding the arrest or issuance of the citation.

(ii) The specific offense charged.

(iii) The ultimate disposition of the charge, including any dismissal, plea bargain, conviction, sentence, pardon, expungement or order of Accelerated Rehabilitative Disposition.

(6) Financial interests and transactions as required by the bureau.

(7) Relating to citations of the applicant issued under the Liquor Code.

(8) Relating to disclosure of conditional license agreements entered into under the Liquor Code.

(9) Any other information required by the board.

(c) Duty of bureau.--The bureau shall conduct a background investigation of each applicant, the scope of which shall be determined by the bureau.

(d) Review.--Within six months of receipt of the background investigation report from the bureau, the board shall approve or disapprove the application.

(e) Background investigation.--Each applicant shall include information and documentation as required to establish personal and financial suitability, honesty and integrity. Information shall include:

(1) Criminal history record information.

(2) Financial background information.

(3) Regulatory history before the board or other Commonwealth agency.

(4) Other information required by the bureau.

(f) Personal interview.--If the bureau determines that the results of the background report investigation warrant additional review of the individual, the bureau shall conduct a personal interview with the applicant and may request information and interviews from other personal or professional associates.

(g) Cooperation.--The applicant shall cooperate with the bureau as requested during the conduct of the background investigation. Any refusal to provide the information required under this section or to consent to a background investigation shall result in the immediate denial of a license by the board.

(h) Costs.--The applicant shall reimburse the bureau for the actual costs of conducting the background investigation. The board shall not approve an applicant that has not fully reimbursed the bureau for the investigation.

(i) Approval.--The bureau shall transmit the investigative report and may make a recommendation to the board. The board shall review the information obtained under this section to determine if the applicant possesses the following:

(1) Financial stability, integrity and responsibility.

(2) Sufficient business experience and ability to effectively operate tavern games as part of the restaurant licensee's operator.

(3) Character, honesty and integrity to be licensed to operate tavern games in a responsible and lawful manner.

(j) Disapproval.--The board may disapprove the issuance of a tavern gaming license for the following reasons:

(1) A license shall not be issued to a restaurant licensee whose liquor license is in safekeeping pursuant to section 474.1 of the Liquor Code.

(2) A license shall not be issued to a location that is subject to a pending objection under section 470(a.1) of the Liquor Code.

(3) A license shall not be issued to a location that is subject to:

(i) a pending license suspension under section 471 of the Liquor Code; or

(ii) a one-year prohibition on the issuance or transfer of a license under section 471(b) of the Liquor Code.

#### Section 904. Application.

(a) Application fee.--An applicant shall pay the board a nonrefundable application fee of \$1,000.

(b) Investigative fee.--An applicant shall pay an investigative fee of \$1,000 to the bureau.

(c) Costs.--In addition to the fee under subsection (b), an applicant and any owner and officer of the applicant shall pay for the actual costs of a background investigation conducted by the bureau that exceed the application fee. The bureau may:

(1) Charge an estimated amount to be provided prior to the background investigation.

(2) Submit for reimbursement from the applicant for the additional costs incurred in the background investigation.

(d) Funds.--Funds collected under subsections (b) and (c) shall augment the funds appropriated to the Pennsylvania Gaming Control Board under 4 Pa.C.S. (relating to amusements).

#### Section 905. Approval.

(a) Issuance.--Upon being satisfied that the requirements of section 903 have been met, the board may approve the application and issue a tavern games license for a period of one year. The board may enter into an agreement with the



licensee concerning additional restrictions on the license, and this agreement shall be binding on the licensee. Failure of the licensee to adhere to the agreement will be cause for penalties under section 913(c) and for the nonrenewal of the license under section 913(f).

(b) Renewal.--A license shall be renewed annually. A license renewal shall not require review of the bureau, unless requested by the board. The board may refuse to renew a tavern gaming license for the following reasons:

(1) A license shall not be issued to a restaurant licensee whose liquor license is in safekeeping under section 474.1 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

(2) A license shall not be issued to a location that is subject to a pending objection under section 470(a.1) of the Liquor Code.

(3) A license shall not be issued to a location that is subject to:

(i) a pending license suspension under section 471 of the Liquor Code; or

(ii) a one-year prohibition on the issuance or transfer of a license under section 471(b) of the Liquor Code.

(c) Fee.--Upon approval, the applicant shall pay a \$2,000 license fee to be deposited in the General Fund. The annual renewal fee shall be \$1,000.

(d) Entitlement.--Nothing under this chapter shall be construed to create an entitlement to a license by a person. The board shall have sole discretion to issue, renew, condition, suspend, revoke or deny a license based on the requirements of this chapter and whether the issuance and maintenance of the license are in the best interests of the Commonwealth.

(e) Nontransferability.--A license shall be a grant of privilege to conduct tavern games. A license may not be sold, transferred or assigned to any other person. A licensee may not pledge or otherwise grant a security interest in or lien on the license. The board shall have the sole discretion to issue, renew, condition or deny the issuance of a license.

Section 906. Change in ownership.

(a) Notice.--A licensee shall notify the board of a change of ownership of the premises or sale or transfer of the restaurant license.

(b) Qualification.--The purchaser or transferee of the assets or premises of a licensee must independently qualify for a license, pay the license fee and undergo and pay fees and costs for a background investigation under section 903.

Section 907. Prize limits.

(a) Individual prize limit.--The maximum prize which may be awarded for any single chance shall be \$2,000. No tavern game sold, offered for sale or furnished may contain, permit, depict or designate a prize having a prize limit in excess of \$2,000.

(b) Aggregate prize limit.--No more than \$35,000 in prizes may be awarded from tavern games by a licensee in a seven-day period.

Section 908. Bank account.

A licensee shall maintain a bank account to hold the net revenue from tavern games which shall be separate from all other funds belonging to the licensee. Account records shall show all expenditures and income and shall be retained by the licensee for at least two years.

Section 908.1. Tavern raffle.

The following shall apply to a tavern raffle:

(1) No more than one tavern raffle may be held in a calendar month.

(2) A tavern raffle must be held for a designated charitable purpose.

(3) Each individual participating in the tavern raffle must be informed of the charitable purpose involved.

(4) At least 50% of the net revenues from the tavern raffle shall be transmitted to the designated charity within seven days of the tavern raffle.

(5) Any net revenues not transmitted under paragraph (4) shall be distributed as follows:

(i) Sixty percent shall be paid to the Commonwealth.

(ii) Thirty-five percent may be retained by the licensee.

(iii) Five percent shall be paid to the Commonwealth and deposited into the restricted receipts account established in section 909.3.

(6) A tavern raffle prize remaining unclaimed by a winner 60 days after the tavern raffle was held shall be donated by the licensee within 30 days to the designated charitable organization for which the tavern raffle was conducted.

#### Section 909. Distribution of net revenue.

Beginning January 1, 2014, the net revenue from tavern games received by a licensee shall be distributed as follows:

(1) Sixty percent of the net revenue obtained in any calendar year shall be paid to the Commonwealth.

(2) Thirty-five percent of the net revenue obtained in any calendar year may be retained by the licensee.

(3) Five percent shall be paid to the Commonwealth and deposited into the restricted receipts account established in section 909.3.

#### Section 909.1. Tavern games tax.

(a) Imposition.--There is imposed a tax of 60% of the net revenue from tavern games sold by a licensed distributor to a licensee within this Commonwealth.

(b) Collection.--The tax imposed under subsection (a) must be collected by the licensed distributor from the licensee in an instance where the tavern game is required to be purchased from a licensed distributor under this act and must be paid over to the Commonwealth.

(c) Other games.--In an instance where the tavern game is not required to be purchased from a licensed distributor under this act, a tax of 60% is imposed upon the net revenue from tavern daily drawings and tavern raffles under section 908.1 and must be paid to the Commonwealth by the licensee.

(d) Requirement to collect and remit.--Failure of a seller of tavern games to obtain a distributor's license does not relieve the seller from the requirement of collecting and remitting the tax imposed under this section.

(e) Returns.--A licensee or licensed distributor subject to this article shall file with the department, upon a form prescribed by the department, a tavern games tax return. The return must be filed under oath or affirmation of an authorized officer of the licensee or licensed distributor reporting the net revenue and the tax due under this section in the prior calendar quarter for licensees and in the prior calendar month for licensed distributors. A return is due by the 20th day following the end of the reporting period. The return must set forth the following:

(1) In the case of a licensed distributor, the total amount of net revenue for the tavern games sold to licensees in the prior calendar month, which must be calculated by indicating the number of each type of tavern game sold and the net revenue for each type of game.

(2) In the case of a licensee, the amount of net revenue for the tavern games not purchased from a licensed distributor that the licensee operated in the prior calendar quarter.

(3) Calculation of the tax due under this section.

(4) For a licensee, the amount from tavern games distributed to a designated charity.

(5) Other information required by the department.

(f) Payment.--A licensee or licensed distributor subject to pay or collect the tax under this section shall remit the tax to the department when the return in subsection (e) is made.

(g) Applicability.--The provisions of section 704 shall apply to a licensee.

(h) Penalties and interest.--If a licensee or licensed distributor fails to file the return required under subsection (e) or fails to pay the tax imposed under subsection (a) or (c), the department may do the following:

(1) assess the amount of tax due;

(2) impose and assess an administrative penalty equal to 10% of the tax due but unpaid for each quarter or fraction thereof that the tax remains unpaid together with interest at the rate established under section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, on the tax from the time the tax became due. The penalty provided in this paragraph must be added to the tax and assessed and collected at the same time and in the same manner as a part of the tax. Unless otherwise specified, the tax must be assessed, collected and enforced by the department under the provisions of Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971;

(3) notify the board that a licensee has not filed returns or has not paid tax. The board may suspend or revoke a licensee's license; or

(4) revoke a licensed distributor's license.

(i) Funds held in trust.--The funds owed to the Commonwealth under this section shall be held in trust by a licensed distributor.

(j) Deposit.--Beginning in fiscal year 2013-2014, the total amount of taxes imposed by this section shall be deposited in the General Fund.

Section 909.2. Host municipality tavern games tax.

(a) Imposition.--There is imposed a tax of 5% of the net revenue from tavern games sold by a licensed distributor to a licensee within this Commonwealth.

(b) Collection.--The tax imposed under subsection (a) must be collected by the licensed distributor from the licensee in an instance where the tavern game is required to be purchased from a licensed distributor under this act and must be paid to the Commonwealth and deposited into the restricted receipts account established in section 909.3.

(c) Other games.--In an instance where the tavern game is not required to be purchased from a licensed distributor under this act, a tax of 5% is imposed upon the net revenue from tavern daily drawings and tavern raffles under section 908.1 and must be paid to the Commonwealth and deposited into the restricted receipts account established in section 909.3.

(d) Requirement to collect and remit.--Failure of a seller of tavern games to obtain a distributor's license does not relieve the seller from the requirement of collecting and remitting the tax imposed under this section.

(e) Returns.--A licensee or licensed distributor subject to this chapter shall file with the department, upon a form prescribed by the department, a host municipality tavern games tax return. The return must be filed under oath or affirmation of an authorized officer of the licensee or licensed distributor reporting the net revenue and the tax due under this section in the prior calendar quarter for licensees and in the prior calendar month for licensed distributors. A return is due by the 20th day following the end of the reporting period. The return must set forth the following:

(1) In the case of a licensed distributor, the total amount of net revenue for the tavern games sold to licensees in each host municipality in the prior calendar month, which must be calculated by indicating the number of each type of tavern game sold, the net revenue for each type of game and the host municipality of each licensee.

(2) In the case of a licensee, the amount of net revenue for the tavern games not purchased from a licensed distributor that the licensee operated in the prior calendar quarter.

(3) Calculation of the tax due under this section.

(4) For a licensee, the amount from tavern games distributed to a designated charity.

(5) Other information required by the department.

(f) Payment.--A licensee or licensed distributor subject to pay or collect the tax under this section shall remit the tax to the department when the return in subsection (e) is made.

(g) Penalties and interest.--If a licensee or licensed distributor fails to file the return required under subsection (e) or fails to pay the tax imposed under subsection (a) or (c), the department may do the following:

(1) assess the amount of tax due;

(2) impose and assess an administrative penalty equal to 10% of the tax due but unpaid for each quarter or fraction thereof that the tax remains unpaid together with interest at the rate established under section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, on the tax from the time the tax became due. The penalty provided in this paragraph must be added to the tax and assessed and collected at the same time and in the same manner as a part of the tax. Unless otherwise specified, the tax must be assessed, collected and enforced by the department under the provisions of Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971;

(3) notify the board that a licensee has not filed returns or has not paid tax. The board may suspend or revoke a licensee's license; or

(4) revoke a licensed distributor's license.

(h) Funds held in trust.--The funds owed to the Commonwealth under this section shall be held in trust by a licensed distributor.

(i) Deposit.--Beginning in fiscal year 2013-2014, the total amount of taxes imposed by this section shall be paid to the Commonwealth and deposited into the restricted receipts account established in section 909.3.

Section 909.3. Restricted receipts account.

(a) Account established.--There is established within the General Fund a restricted receipts account to be known as the Host Municipality Tavern Games Local Share Account.

(b) Distributions.--The department shall make distributions from the Host Municipality Tavern Games Local Share Account to each host municipality. Each host municipality shall receive a distribution equal to the revenue remitted into the Host Municipality Tavern Games Local Share Account by:

- (1) licensees located within the host municipality; and
- (2) licensed distributors under section 909.2 generated by purchases from licensees in the host municipality.

(c) Payments to host municipalities.--The department shall make payments to host municipalities within 60 days of the end of each calendar year.

#### Section 910. Regulation.

The department shall enforce all revenue provisions of this chapter and may promulgate and enforce regulations relating to the enforcement, collection of tax and imposition of tax.

#### Section 911. Invoice.

A sale of a tavern game by a licensed distributor to a licensee must be documented by an invoice listing the names and types of games sold, quantities of each game sold, the net revenue of each game and the aggregate amount of tax due on the net revenue on each invoice. Failure to provide a correct invoice shall result in a penalty of 50% of the tax amount due payable to the Commonwealth.

#### Section 912. Reports.

A licensee shall submit an annual report to the board and the department for the preceding year on a form and in a manner prescribed by the department. The department shall develop a schedule for the submission of the annual report. The report shall include:

- (1) Prizes awarded as required under section 335 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.
- (2) Net revenue received from each tavern game conducted, itemized by week.
- (3) Amount of prizes paid from all tavern games, itemized by week.
- (4) Amount of tax remitted to the department.
- (5) Amount given to designated charities from tavern raffles.
- (6) Other information as required by the department.

#### Section 913. Enforcement.

(a) Board.--The board may, following notice and hearing, impose penalties or suspend or revoke a license under this chapter.

(b) Authority of department.--Notwithstanding any law to the contrary, the department may report violations of this chapter to the board and to the Bureau of Liquor Control Enforcement.

(c) Penalties.--The board may impose a civil penalty for a violation of this chapter in accordance with the following:

- (1) Up to \$2,000 for an initial violation.
- (2) Up to \$3,000 for a second violation.
- (3) Up to \$5,000 for a third violation.

(d) Criminal penalty.--A violation of this chapter shall be a misdemeanor of the third degree. A second or subsequent offense shall be a misdemeanor of the second degree.

(e) Administrative law judge.--An administrative law judge under section 212 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, may impose the penalties under this

section following the issuance of a citation by the Bureau of Liquor Control Enforcement.

(f) Suspension, revocation or failure to renew.--

(1) In addition to any other sanctions the board may impose under this chapter or under the Liquor Code, the board may, at its discretion, suspend, revoke or deny renewal of any license issued under this chapter if it receives any information from any source and determines that:

(i) The applicant or any of its officers, directors, owners or employees:

(A) Is in violation of any provision of this chapter.

(B) Furnished the board with false or misleading information.

(ii) The information contained in the applicant's initial application or any renewal application is no longer true and correct.

(2) In the event of a revocation, suspension or failure to renew, the applicant's authorization to conduct the previously approved activity shall immediately cease, and all fees paid in connection therewith shall be deemed to be forfeited. In the event of a suspension, the applicant's authorization to conduct the previously approved activity shall immediately cease until the board has notified the applicant that the suspension is no longer in effect.

#### Section 914. Prohibitions.

The following shall apply to any license authorized or issued under this chapter:

(1) No license may be issued to a restaurant licensee whose place of business is located in a licensed facility as defined in 4 Pa.C.S. § 1103 (relating to definitions).

(2) No license may be issued to a place of business on the grounds of a facility where a major league sports team conducts games or races.

(3) No license may be issued to a place of business that has been decreed a nuisance pursuant to section 611 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

(4) The board shall be prohibited from issuing a license to any person who has been convicted of a felony offense or misdemeanor gambling offense in any jurisdiction unless 15 years have elapsed from the date of conviction of the offense.

(5) It shall be unlawful for an individual under 21 years of age to play or attempt to play or otherwise participate in a tavern game.

(6) It shall be unlawful for a licensee to permit an employee under 18 years of age to operate tavern games.

(7) It shall be unlawful for an owner, officer or employee of a licensee to sell, operate or otherwise participate in the conduct of tavern games if the employee has been convicted in any jurisdiction of a felony or a misdemeanor gambling offense unless 15 years have elapsed from the date of conviction of the offense.

(8) It shall be unlawful for an owner or officer of a licensee or for an employee of the licensee who operates the tavern game to participate in the game. This paragraph shall not apply to a raffle.

#### Section 915. Applicability.

(a) Local option.--This chapter applies only to restaurant licensees located in municipalities which have exercised the option under section 703.

(b) Advertising.--Section 704 shall apply to all licenses awarded under this chapter.

(c) Limitation and abrogation.--Nothing in this chapter is intended to limit or otherwise abrogate the applicability of any provision of this act.

Section 6. The act is amended by adding a section to read:  
**Section 3101. Report of the Legislative Budget and Finance Committee.**

No later than March 15, 2016, and each March 15 thereafter, the Legislative Budget and Finance Committee shall issue a report to the General Assembly analyzing the impact, if any, of Chapter 9 on the State Lottery. The Governor may submit a request to the General Assembly to authorize a transfer of funds from the General Fund to the State Lottery Fund up to the amount identified in the report for the fiscal year following the date of the report.

Section 7. Section 3101 of the act, renumbered February 2, 2012 (P.L.7, No.2), is renumbered to read:  
Section [3101] **3110.** Effective date.

This act shall take effect in 60 days.

Section 8. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) This section.

(ii) The amendment of the definitions of "major league sports drawing" and "major league sports team" in section 103 of the act.

(iii) The amendment or addition of section 304.1(c), (c.1), (f) and (h) of the act.

(2) The remainder of this act shall take effect in 60 days.

APPROVED--The 27th day of November, A.D. 2013.

TOM CORBETT