

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1518 Session of
1983

INTRODUCED BY CAWLEY, DUFFY, CORDISCO, DOMBROWSKI, HALUSKA,
JAROLIN, TIGUE, KOSINSKI, RICHARDSON, CAPPABIANCA, VAN HORNE,
MISCEVICH, LETTERMAN, STEWART, DeLUCA, WOZNIAK, BURNS, OLASZ,
TRELLO, PISTELLA, CALTAGIRONE, KASUNIC AND LESCOVITZ,
OCTOBER 3, 1983

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, OCTOBER 3, 1983

AN ACT

1 Providing for the licensing, operation and placement of coin-
2 operated gaming machines within this Commonwealth; creating
3 the Gaming Commission; providing powers and duties; providing
4 for enforcement; prohibiting use by minors; providing for
5 local option; providing for distribution of revenues to be
6 used for specified purposes; and providing penalties.

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

14 Section 1. Short title.

15 This act shall be known and may be cited as the Gaming
16 Machine and Equipment Law.

17 Section 2. Definitions.

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

21 "Coin-operated gaming machine." Any mechanical, electrical,
22 video or other coin-operated device, contrivance or machine
23 which, upon insertion of a coin or token, or upon payment of any
24 consideration, is available to play or operate, with the
25 opportunity to win anything of value, including all coins or
26 tokens, by application of the elements of skill, chance, or
27 both, which may deliver to the player, or person operating the
28 machine with cash, premiums, merchandise, tokens or anything of
29 value.

30 "Commission." The Gaming Commission as created by this act.

1 "Distributor." Any person who has been granted a
2 distributor's franchise for this Commonwealth by any coin-
3 operated gaming machine manufacturer and has paid the annual
4 license fee provided by law. A manufacturer of coin-operated
5 gaming machines, or any subsidiary thereof, shall not be a
6 distributor under this act.

7 "Gross revenues." All revenues derived from the license fees
8 received by the commission in accordance with this act.

9 "Licensed liquor establishment." An establishment holding a
10 retail hotel, restaurant or club liquor license issued by the
11 Pennsylvania Liquor Control Board pursuant to the act of April
12 12, 1951 (P.L.90, No.21), known as the Liquor Code.

13 "Manufacturer." A person primarily engaged in the
14 manufacture, assembly or production of coin-operated gaming
15 machines.

16 "Municipality." Any county, city, borough, incorporated town
17 or township.

18 "Net revenues." All revenues derived from the license fees
19 received by the commission in accordance with this act after the
20 deduction of all expenses incurred by the commission for the
21 implementation of this act.

22 "Operator." Any person who qualifies and is granted an
23 operator's license.

24 "Person." An individual, firm, partnership, association,
25 corporation or entity.

26 "Public facility." Any area designated as such by a
27 municipality.

28 "Qualified nonprofit organization." A nonprofit service or
29 fraternal organization entitled to exemption from Federal income
30 tax under section 501(c)(4), (5), (7), (8), (10) or (19) of the

1 Internal Revenue Code of 1954, as amended, and which regularly
2 occupies, as owner or lessee, quarters for the use of its
3 members.

4 "Qualified sleeping units." The number of rooms actually
5 available for rental which are at least 150 square feet measured
6 to the center of perimeter walls, including bathroom and closet
7 space, excluding hallways, balconies and lounges.

8 "Resort." A hotel, that in addition to providing lodging and
9 other services customarily associated with the business of
10 hostelry, has devoted substantial space to public recreational
11 pursuits, both indoors and outdoors, such as dining,
12 entertainment, sports, theaters, dancehalls, swimming pools,
13 tennis courts, golf courses, riding stables and such other
14 activities as are normally associated with recreation and
15 vacation that are beyond the requirement of mere transient
16 guests.

17 "Route operator." Any person engaged in the business of
18 placing and operating coin-operated gaming machines in approved
19 establishments under any agreement whereby consideration is paid
20 or payable for the placement of those coin-operated gaming
21 machines whether the consideration is measured by a percentage
22 of revenues derived from the machines or by a fixed fee or
23 otherwise and the person has been established in the coin
24 machine business in this Commonwealth for at least one calendar
25 year. A manufacturer of coin-operated gaming machines, or any
26 subsidiary thereof, shall not be a route operator under this
27 act.

28 "Subsidiary." A company in which a manufacturer has more
29 than a 50% beneficial or legal interest.

30 Section 3. Gaming Commission.

1 (a) Independent commission.--An independent commission to be
2 known as the Gaming Commission is hereby created. The commission
3 shall consist of five members. One member shall be appointed by
4 the Governor; two members shall be appointed by the House of
5 Representatives and two members shall be appointed by the
6 Senate. Of the original members, one shall be appointed for a
7 term of two years, one for a term of three years, one for a term
8 of four years, one for a term of five years and one for a term
9 of six years. Thereafter, all appointments shall be for terms of
10 six years or until successors are appointed and qualified.

11 (b) Political affiliation.--No more than three members of
12 the commission shall be registered under the same political
13 party.

14 (c) Compensation.--Each member of the commission shall
15 receive compensation as fixed by law.

16 Section 4. Qualifications of members.

17 Each member of the commission at the time of his appointment
18 and qualification shall be a citizen of the United States and a
19 resident of this Commonwealth, shall have been a qualified
20 elector in this Commonwealth for a period of at least one year
21 preceding his appointment and shall not be less than 30 years of
22 age.

23 Section 5. Chairman and quorum.

24 (a) Chairman.--The commission shall elect one of its members
25 as chairman. The chairman shall, when present, preside at all
26 meetings. A designated member shall preside in his absence.

27 (b) Quorum.--Three members of the commission shall
28 constitute a quorum and any action or order of the commission
29 shall require the approval of at least three members.

30 Section 6. Director.

1 The commission may appoint a director to hold office at its
2 pleasure. The director, if appointed, shall have the powers and
3 duties not contrary to law as the commission shall prescribe and
4 shall receive compensation as the commission shall determine.
5 The director shall have the authority to designate a deputy
6 director to perform the duties of the director during his
7 absence.

8 Section 7. Bonds.

9 Before entering upon the duties of their respective offices
10 or positions, each member of the commission and the director
11 shall execute and file with the State Treasurer a bond in such
12 penal sum as shall be fixed by the Executive Board of this
13 Commonwealth. The amount of any bond shall not be less than
14 \$50,000.

15 Section 8. Powers and duties of commission.

16 The commission shall have the power and its duties shall be
17 to:

18 (1) Provide for licensing procedures for the placement
19 of coin-operated gaming machines.

20 (2) Prescribe the form for licensing applications and
21 licenses.

22 (3) Grant or deny license applications. The commission
23 may deny any application or limit, condition or restrict any
24 license for cause deemed reasonable by the commission. The
25 burden of proving qualification to receive any license is
26 upon the applicant. An application shall not be granted
27 unless the commission is satisfied that:

28 (i) The applicant is of good character, honesty and
29 integrity and in all respects is qualified to operate,
30 manufacture or distribute coin-operated gaming machines,

1 as the case may be; and that the proposed financing of
2 the applicant is adequate for the nature of the proposed
3 operation and from a suitable source.

4 (ii) The applicant has no affiliations or
5 associations which, because of reputation, prior
6 activities or current actions, create or enhance the
7 danger of unsuitable or illegal conduct in the carrying
8 on of the activities permitted under this act, or pose a
9 threat to the public interest or the effective regulation
10 and control of the activities permitted under this act.

11 (iii) The applicant for an operator's license has
12 been a resident of this Commonwealth for a period of two
13 years prior to the filing of an application for a
14 license. If the applicant is a corporation, it shall have
15 been engaged in business in this Commonwealth for a
16 period of two years prior to the filing of an application
17 for a license.

18 (4) The applicant shall pay all costs of investigation
19 for his application. The commission shall collect from each
20 applicant an amount of money sufficient to pay the costs
21 incurred in the investigation before taking any action by way
22 of grant or denial of the application.

23 (5) Issue licenses permitting the placement of coin-
24 operated gaming machines in certain approved establishments.

25 (6) Prescribe the rules and regulations for the games,
26 types of games and machines permissible, along with the
27 supervision and placement of machines.

28 (7) Select and types and makes of coin-operated gaming
29 machines that will be installed in this Commonwealth.

30 (8) Adopt rules and regulations providing for the

1 suspension and revocation of licenses for violations of this
2 act or the rules and regulations promulgated under this act.

3 (9) Hold hearings on license applications or for the
4 revocation or suspension of any license.

5 (10) Monitor the use, maintenance and service of the
6 machines.

7 (11) Prescribe rules and regulations for the conduct of
8 the officers, employees and agents of the commission.

9 (12) Adopt rules and regulations establishing the
10 requirements and procedures for maintaining the security and
11 audit accountability of the coin-operated gaming machines and
12 revenues derived therefrom.

13 (13) Prescribe rules and regulations as may be necessary
14 to carry out the provisions of this act.

15 Section 9. Enforcement agents.

16 Employees of the commission designated "enforcement agents"
17 shall be empowered to investigate and review the background and
18 associates of every license applicant to whatever extent is
19 judged necessary by the commission. No investigation shall be
20 undertaken prior to the submission of an application for a
21 license by a party and no investigation shall continue
22 subsequent to the grant of a license, the denial of a license or
23 the withdrawal of a license application. Enforcement of all
24 other provisions of this act shall be the responsibility of the
25 Pennsylvania State Police.

26 Section 10. Authority to issue licenses and distribution of
27 machines.

28 (a) Distributors and operators.--Upon payment of the
29 required license fees and compliance with the requirements of
30 this act, the commission shall have the authority to issue a

1 distributor's license to any distributor of coin-operated gaming
2 machines and an operator's license to any distributor or route
3 operator of coin-operated gaming machines or to persons holding
4 a hotel, restaurant or club liquor license or to any facility
5 licensed by the Pennsylvania State Harness Racing Commission or
6 the Pennsylvania State Horse Racing Commission to install,
7 operate and make available to the general public such gaming
8 machines as the commission shall permit within the following
9 guidelines:

10 (1) Restaurants, other than motel restaurants and clubs
11 shall be limited to no more than 15 coin-operated gaming
12 machines for each approved establishment.

13 (2) Each restaurant, hotel or club shall possess a valid
14 liquor license issued by the Pennsylvania Liquor Control
15 Board prior to its being approved as a location for the
16 placement of coin-operated gaming machines. The liquor
17 license shall be maintained in good standing at all times
18 during the maintenance of the operator's license. The
19 revocation, sale, termination or transfer of the liquor
20 license, shall operate to immediately revoke the authority of
21 an operator to install, place or operate any coin-operated
22 gaming machines on the approved location. In the event of a
23 suspension of the liquor license, the authority to operate
24 coin-operated gaming machines on the premises shall be
25 suspended until such time as the liquor license is
26 reinstated.

27 (3) Motels possessing a restaurant liquor license and
28 hotels shall be limited to one coin-operated gaming machine
29 for every two qualified sleeping units.

30 (4) Any municipality shall have the authority to permit

1 the installation of any number of coin-operated gaming
2 machines at locations designated by the municipality as a
3 public facility including, but limited to, airports,
4 transportation terminals or public sports facilities.

5 (5) Any qualified nonprofit organization shall be
6 permitted to install and operate coin-operated gaming
7 machines on its premises. A nonprofit organization shall
8 first obtain a valid operator's license for the operation or
9 shall have machines placed on the premises by a person
10 possessing a valid operator's license. The number and
11 location of coin-operated gaming machines for the nonprofit
12 organization shall be determined by the commission.

13 (b) Manufacturers.--The commission shall have the authority
14 to issue a manufacturers license to any manufacturer who offers
15 coin-operated gaming machines for use, sale or distribution
16 within this Commonwealth.

17 Section 11. Use by minors.

18 (a) Minors.--No person less than 21 years of age shall use
19 or play the coin-operated gaming machines in any manner or form,
20 or through any agency. Any minor using or playing the machine,
21 or attempting to use or play the machine shall, upon conviction,
22 be liable for a fine not in excess of \$1,000.

23 (b) Licensees.--Any licensee who permits a person less than
24 21 years of age to play or use a coin-operated gaming machine in
25 any fashion, whether that licensee is actually aware of the
26 minor's age or not, shall, upon conviction, be liable for a fine
27 not in excess of \$5,000, except that the establishment of all
28 the following facts by a person allowing the minor to operate
29 the machine shall constitute a defense to any prosecution under
30 this subsection:

1 (1) That the minor falsely represented in writing that
2 he was 21 years of age or over.

3 (2) That the appearance of the minor was such that a
4 reasonable person would believe him to be 21 years of age or
5 over.

6 (3) That the permission to operate the coin-operated
7 gaming machine was made in good faith, relying upon written
8 representation and in the reasonable belief that the minor
9 was actually 21 years of age or older.

10 Section 12. Local option.

11 The placement of coin-operated gaming machines in any
12 municipality in this Commonwealth shall be lawful except that in
13 any municipality, other than a county, an election may be held
14 on the date of any primary or general election within one year
15 from the effective date of this act to determine the will of the
16 electors with respect to the placement of coin-operated gaming
17 machines within that municipality. Whenever the governing body
18 of the municipality adopts, by majority vote, a resolution to
19 place such a question on the ballot, a copy of the resolution
20 shall be filed with the county board of elections, no less than
21 90 days prior to the next primary or general election, for a
22 referendum on the question of placing coin-operated gaming
23 machines within that municipality. The county board of elections
24 shall cause a question to be placed on the ballots or on the
25 voting machine board and submitted at the next primary or
26 general election. The question shall be in the following form:

27 Do you favor the placement of coin-operated gaming
28 machines in the _____of _____?

29 A majority of the voting electors shall decide the question and
30 the results shall be transmitted to the Secretary of the

1 Commonwealth who shall have the duty of informing the commission
2 of the result. Proceedings under this section shall be in
3 accordance with the provisions of the act of June 3, 1937
4 (P.L.1333, No.320), known as the Pennsylvania Election Code.

5 Section 13. Distribution of coin-operated gaming machines.

6 All coin-operated gaming machines installed, maintained and
7 used in this Commonwealth shall be obtained by the licensed
8 operator by purchase or lease only through a distributor that
9 has been granted a distributor's license by the Commonwealth.

10 Section 14. License fees.

11 (a) Distributors.--The annual license fee for a coin-
12 operated gaming machine distributor shall be \$10,000.

13 (b) Operators.--The annual license fee for a coin machine
14 operator shall be \$50,000. A licensed operator shall pay an
15 additional annual fee of \$1,000 for each additional coin-
16 operated gaming machine license purchased.

17 (c) Municipality or school district.--The maximum annual fee
18 to be charged by any municipality or school district shall not
19 exceed \$250.

20 Section 15. Collection and distribution of revenues.

21 (a) Net revenues.--The net revenues derived from the
22 licensing of the coin-operated gaming machines by the
23 Commonwealth shall be held by the State Treasurer until such
24 time as they are to be distributed.

25 (b) Proceeds.--The proceeds of the coin-operated gaming
26 machines shall be distributed in accordance with an annual
27 schedule adopted by the General Assembly.

28 Section 16. Winning percentage.

29 At no time shall any winning payoff percentage be less than
30 83% to the player.

1 Section 17. Preemption.

2 The provisions of this act shall preempt the act of August 5,
3 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act,
4 and the act of December 31, 1965 (P.L.1257, No.511), known as
5 The Local Tax Enabling Act.

6 Section 18. Penalties.

7 A person who violates this act commits a summary offense and
8 shall, upon conviction, be sentenced to pay a fine of not more
9 than \$10,000 and costs of prosecution or shall be sentenced to a
10 term of imprisonment of not more than 30 days, or both.

11 Section 19. Repeals.

12 (a) Specific repeal.--The provisions of 18 Pa.C.S. § 5513
13 (relating to gambling devices, gambling, etc.) are repealed to
14 the extent that they are inconsistent with this act.

15 (b) General repeal.--All other acts and parts of acts are
16 repealed insofar as they are inconsistent with this act.

17 Section 20. Exemption from Federal regulations.

18 The General Assembly declares that it is exempt from the
19 provisions of section 2 of the Gambling Devices Transportation
20 Act of January 2, 1951 (64 Stat. 1134, 15 U.S.C. § 1172). All
21 shipments of coin-operated gaming machines into this
22 Commonwealth in compliance with sections 3 and 4 of that act
23 shall be deemed legal shipments into this Commonwealth.

24 Section 21. Effective date.

25 This act shall take effect in 60 days.