

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2451 Session of
1984

INTRODUCED BY CALTAGIRONE, JAROLIN, WOGAN AND PERZEL,
SEPTEMBER 19, 1984

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE,
SEPTEMBER 19, 1984

AN ACT

1 Providing for gaming machines and small games of chance;
2 establishing the Gaming Commission and providing for its
3 powers and duties; providing for enforcement, the licensing
4 of manufacturers, distributors, vendors and operators, the
5 operation of gaming machines and small games of chance;
6 providing for the disposition of revenues, for local option,
7 for the preemption of certain local taxes; and providing
8 penalties.

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

13 Section 1. Short title.

14 This act shall be known and may be cited as the Licensee
15 Gaming Law.

16 Section 2. Definitions.

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

20 "Commission." The Gaming Commission.

21 "Distributor." An individual, partnership or corporation,
22 approved and licensed by the commission, that buys, sells, or
23 leases gaming machines.

24 "Gaming machines." Coin-operated electronic devices upon
25 which a microprocessor controlled video game utilizes the
26 reason, skill or element of chance of the person operating the
27 device, who may receive cash, merchandise or something of value
28 as a reward.

29 "Manufacturer." An individual, partnership or corporation,
30 approved and licensed by the commission, that manufactures,

1 assembles or repairs video gaming machines.

2 "Municipality." A city, borough, incorporated town or
3 township.

4 "Operator." An individual, partnership or corporation who or
5 which has been issued a restaurant, club, caterer club, hotel or
6 eating place license pursuant to the act of April 12, 1951
7 (P.L.90, No.21), known as the Liquor Code.

8 "Small games of chance." Any device approved by the
9 commission, and used for gaming purposes whereby money is placed
10 at risk for the possible return of merchandise, money or
11 anything of value. Such devices shall include, but not be
12 limited to, punch boards, pull-tab devices, half-and-half
13 tickets or gaming pools.

14 "Vendor." An individual, partnership or corporation,
15 approved and licensed by the commission, that sells, leases,
16 repairs and maintains video gaming machines.

17 Section 3. Gaming Commission.

18 (a) Establishment and composition.--There is hereby
19 established an independent commission to be known as the Gaming
20 Commission. The commission shall consist of five members
21 appointed as follows:

22 (1) One member appointed by the Governor.

23 (2) Two members appointed by the President pro tempore
24 of the Senate.

25 (3) Two members appointed by the Speaker of the House of
26 Representatives.

27 (b) Terms.--The terms of members shall be six years and
28 until their successors are appointed. In case of a vacancy, the
29 same appointing authority shall appoint a member to fulfill the
30 unexpired term.

(c) Initial appointments.--Initial appointments to the commission shall be as follows:

(1) The Governor shall appoint one member to a six-year term.

(2) The President pro tempore of the Senate shall appoint one member for a term of three years and one member for a term of five years.

(3) The Speaker of the House shall appoint one member for a term of two years and one member for a term of four years.

Section 4. Qualifications of members.

(a) Citizenship, age and residency.--Each member of the commission shall be a citizen of the United States and a resident of this Commonwealth and shall have been a qualified elector in this Commonwealth for a period of three years preceding the member's appointment and must be no less than 30 years of age. No more than three members of the commission shall be registered and enrolled in the same political party.

(b) Public office.--No member of the commission may hold any elected or appointed public office under the laws of the Commonwealth or the United States or seek elected public office of any kind within this Commonwealth or the United States.

Section 5. Chairman, quorum, etc.

(a) Chairman.--The chairman of the commission shall be elected by the members. The chairman shall preside at all meetings or a member designated by the chairman shall preside in the chairman's absence.

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

1 (c) Bond.--All members of the commission shall file with the
2 State Treasurer a bond in the form and amount determined by the
3 Executive Board.

4 (d) Salaries and expenses.--The salary and expenses of the
5 commission members shall be determined by the Executive Board.

6 (e) Executive director.--The commission may appoint an
7 executive director to hold office at its pleasure. The executive
8 director shall have the powers and duties as the commission
9 shall prescribe. The executive director shall have the authority
10 to designate a deputy director to perform the duties of the
11 executive director during the director's absence. The executive
12 director shall receive compensation in the amount approved by
13 the Executive Board.

14 Section 6. Powers and duties.

15 The commission shall have the following powers and duties:

16 (1) To issue licenses in accordance with this act.

17 (2) To enforce this act and any rules and regulations
18 promulgated hereunder.

19 (3) To promulgate rules and regulations in the manner
20 provided by law.

21 (4) To appoint, fix the compensation and define the
22 powers and duties, terms and conditions of employment and
23 standards of conduct of such employees and enforcement agents
24 as it deems necessary.

25 (5) To approve the gaming machines and the small games
26 of chance to be operated under this act.

27 Section 7. Enforcement.

28 (a) Powers.--Employees of the commission designated as
29 enforcement agents shall investigate the background of every
30 license applicant to the extent necessary to comply with this

1 act. No investigation shall be undertaken prior to the
2 submission of an application for a license by an applicant.

3 (b) Authority.--Enforcement agents shall have police power
4 and authority throughout this Commonwealth with respect to the
5 enforcement of this act, including the power and authority to
6 arrest, on view or under warrant, any person violating this act.

7 (c) Investigation and report.--Enforcement agents may
8 investigate any alleged illegal activities concerning this act.
9 Findings shall be reported to the commission which shall relay
10 any suspected violations to the district attorney for
11 disposition.

12 Section 8. Licenses.

13 (a) Qualifications.--To qualify for a license under this
14 act, an applicant shall meet all of the following
15 qualifications:

16 (1) If the applicant is an individual:

17 (i) The applicant is of good character, honesty and
18 integrity and in all respects is qualified and has
19 adequate financing from suitable sources.

20 (ii) The applicant is a citizen of the United States
21 and a resident of this Commonwealth for at least two
22 years prior to the application.

23 (2) If the applicant is a partnership, all partners meet
24 the qualifications for individuals under paragraph 1.

25 (3) If the applicant is a corporation applying for a
26 license as an operator, vendor or distributor:

27 (i) It is a registered corporation of at least one
28 year.

29 (ii) At least 50% of its directors are residents of
30 this Commonwealth for at least one year.

1 (iii) All officers meet the qualifications for
2 individuals under paragraph (1).

3 (iv) All stockholders are individuals.

4 (b) Cause for disapproval.--The commission may not
5 disapprove any application or limit, condition or restrict any
6 license except for reasonable cause.

7 (c) Issuance.--The commission, upon application and payment
8 of the proper fee by the applicant, shall issue to the qualified
9 applicant a license of the type for which the application was
10 made. No more than one classification of gaming license shall be
11 issued to any one applicant.

12 (d) Meaning.--Any person aggrieved by an action of the
13 commission in disapproving or limiting a license application
14 shall have the right to a hearing before the commission.
15 Hearings before the commission and appeals therefrom shall be
16 conducted and taken in the manner provided in Title 2 of the
17 Pennsylvania Consolidated Statutes (relating to administrative
18 law and procedure).

19 Section 9. License fees.

20 (a) Manufacturers.--The manufacturers' annual license fee
21 shall be \$15,000.

22 (b) Distributors.--The distributors' annual license fee
23 shall be \$10,000.

24 (c) Vendors.--The vendors' annual license fee shall be
25 \$10,000. Each approved machine shall be licensed and validated
26 with a tax stamp with a fee of \$250 per machine. The vendor's
27 license fee shall constitute the licensing of 40 gaming
28 machines. Each additional machine sold or leased by the vendor
29 will require an additional \$250 license and a validated tax
30 stamp.

1 (d) Operators.--The operators' annual license fee shall be
2 \$500 to conduct small games of chance and operate gaming
3 machines on a licensed premise.

4 Section 10. Distribution of gaming machines and small games of
5 chance.

6 (a) Gaming machines.--The number of gaming machines to be
7 distributed to each operator's premises shall be no more than
8 ten.

9 (b) Purchase of small games of chance.--Operators shall
10 purchase games of chance from an authorized agent appointed by
11 the commission. Cost of games of chance shall include the
12 manufacturing and purchasing cost of approved games, plus a
13 profit included as revenue to the Commonwealth, as determined by
14 the commission.

15 (c) Small games of chance.--The description and number of
16 small games of chance to be approved shall be determined by the
17 commission and published as a regulation.

18 Section 11. Winning percentage and gaming machine
19 accountability.

20 (a) Payoff.--The percentage of payoff to the player of
21 gaming machines shall be no less than 80%.

22 (b) Accounting device.--All gaming machines shall have
23 electronic accounting devices to verify revenue due the
24 Commonwealth.

25 Section 12. Minors.

26 (a) Penalty.--A person who is under 21 years of age and
27 plays or attempts to play a small game of chance or gaming
28 machine commits a misdemeanor of the third degree and, upon
29 conviction, shall be sentenced to pay a fine of not less than
30 \$200 nor more than \$500.

1 (b) Licensee.--A licensee who willfully permits a person
2 under 21 years of age to play a small game or gaming machines of
3 chance commits a misdemeanor of the third degree and, upon
4 conviction, shall be sentenced to pay a fine of not less than
5 \$200 nor more than \$500.

6 (c) Defense.--It shall be a defense to a prosecution brought
7 under subsection (b) that the licensee or his employee has
8 obtained a written verification of the age of the person
9 participating in the small game of chance or gaming machine on a
10 form prescribed by the commission.

11 Section 13. Violations.

12 The commission shall investigate and may suspend or revoke a
13 license for a violation of this act. No license shall be
14 suspended or revoked until a hearing before the commission is
15 completed. A civil penalty for a violation of this act or
16 regulations adopted hereunder shall not exceed \$1,000 for the
17 first offense or \$2,000 for each subsequent violation.

18 Section 14. Revenues and disposition.

19 (a) Application of act.--The provisions of this act relating
20 to revenues and license fees shall apply equally to all
21 operators, whether profit or nonprofit.

22 (b) Net revenues.--The net revenues derived from licensing
23 and collection of fees relative to the operation of gaming
24 machines and small games of chance shall be transmitted to the
25 State Treasurer and distributed yearly in accordance with the
26 following:

27 (1) A portion of the proceeds shall be distributed to
28 school districts based upon the ratio of student population
29 of each school district has to the total Commonwealth student
30 population. For the purpose of this paragraph, students in

1 private schools shall be counted in determining local school
2 district student population and total Commonwealth student
3 population.

4 (2) A portion of the proceeds shall be distributed to
5 those municipalities allowing gaming machines and small games
6 of chance based upon the ratio the municipal population bears
7 to the total population of those municipalities allowing
8 gaming machines and small games of chance.

9 (3) A portion of the proceeds shall be distributed to
10 the Commonwealth police, fire and municipal ambulance
11 services for the purchase of equipment according to a formula
12 to be established by the General Assembly.

13 Section 15. Exemption from gambling laws.

14 (a) Licensees.--No licensee shall be prosecuted under the
15 criminal laws of the Commonwealth relating to gambling for any
16 activity for which the licensee is licensed.

17 (b) Machines.--Gaming machines and small games of chance
18 approved by the commission are exempt from the criminal laws of
19 the Commonwealth relating to the manufacture, transfer or
20 possession of gaming machines and small games of chance.

21 Section 16. Local option.

22 (a) Lawful operation.--The operation of gaming machines and
23 small games of chance shall be lawful in any municipality except
24 as provided in subsection (b).

25 (b) Referendum.--

26 (1) At the municipal or general election occurring
27 within two years of the effective date of this act, a
28 referendum may be held to determine the will of the electors
29 with respect to the operation of gaming machines and small
30 games of chance within a municipality.

1 (2) Whenever electors equal to at least 25% of the
2 highest vote cast for any office in the municipality at the
3 last preceding general election shall file a petition with
4 the county board of elections for a referendum on the
5 question of gaming machines and small games of chance, the
6 board shall place the question on the ballots or voting
7 machines at the next municipal or general election. The
8 referendum shall be conducted in the manner provided for
9 elections under the act of June 3, 1937 (P.L.1333, No.320),
10 known as the Pennsylvania Election Code.

11 (3) The question shall be:

12 Do you favor the operation of gaming machines and
13 small games of chance in the _____ of
14 _____?

15 (4) In case of a tie vote, the status quo shall obtain.
16 If a majority of the electors vote "yes" on the question, the
17 operation of gaming machines and small games of chance shall
18 remain lawful within the municipality. If a majority of the
19 electors vote "no", all licenses for the operation of gaming
20 machines and small games of chance shall automatically expire
21 30 days from the date of the certification of the vote by the
22 county board of elections, the commission shall issue no
23 further licenses and the operation of gaming machines and
24 small games of chance shall be unlawful within that
25 municipality.

26 Section 17. Preemption of local taxes and license fees.

27 All gaming machines for which the appropriate license fee has
28 been paid to the commission shall be exempt from any taxes
29 levied under the authority of the act of December 31, 1965
30 (P.L.1257, No.511), known as The Local Tax Enabling Act, or the

1 act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as
2 the Sterling Act.

3 Section 18. Exemption from Federal regulation.

4 The General Assembly declares that the Commonwealth is exempt
5 from section 2 of the act of January 2, 1981 (64 Stat. 1134, 15
6 U.S.C. § 1172) and that all shipments of approved gaming
7 machines into this Commonwealth in compliance with sections 3
8 and 4 of that act shall be deemed legal shipments into this
9 Commonwealth.

10 Section 19. Effective date.

11 This act shall take effect in 60 days.