

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1408

Session of
1985

INTRODUCED BY TRELLO, SEVENTY, CALTAGIRONE, PRESTON, VEON,
PERZEL, STABACK, MICHLOVIC, KENNEY, RICHARDSON, BURD AND
PETRONE, JUNE 11, 1985

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, OCTOBER 7, 1985

AN ACT

1 Providing for licensing and placement of video poker machines in
2 this Commonwealth, for powers and duties of the Department of
3 Revenue, for local option and for distribution of revenues.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Video Poker
10 Control Law.

11 Section 2. Definitions.

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

15 "Clubs." Nonprofit establishments which have a valid club
16 liquor license under the act of April 12, 1951 (P.L.90, No.21),
17 known as the Liquor Code.

18 "Department." The Department of Revenue of the Commonwealth.

19 "Distributor." An individual, partnership or corporation
20 licensed under this act to buy, sell, lease or distribute video
21 poker machines. The term excludes machine owners and
22 manufacturers.

23 "Gross proceeds." The total amount of money placed into
24 video poker machines by players. ~~plus the value of credits which~~ <—
25 ~~are played rather than cashed in for prizes won.~~

26 "Incentives." A consideration, including a premium or bonus
27 in cash or advance commission or merchandise offered from a
28 machine owner to a licensed establishment in order to solicit
29 its business.

30 "Licensed establishment." A restaurant, bar, tavern, hotel

1 or club which has a valid liquor license under the Liquor Code
2 AND WHICH IS LOCATED WITHIN A PARTICIPATING POLITICAL
3 SUBDIVISION.

<—

4 "Machine owner." An individual, partnership or corporation
5 licensed under this act that owns, services and maintains video
6 poker machines for placing in various State-approved places.

7 "Manufacturer." An individual, partnership or corporation
8 licensed under this act that manufactures or assembles video
9 poker machines.

10 "Net profits." Gross proceeds after prizes, AND LICENSE FEES
11 AS PROVIDED FOR IN SECTION 8(A)(3), have been paid.

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12 "Operator." A club or establishment licensed under this act
13 to offer video poker by the placing and making available for
14 play of video poker machines.

15 "Participating political subdivision." A city, incorporated
16 town, township or borough where video poker machines are in use
17 under this act.

18 "Video poker machine." A device or machine which, upon
19 insertion of a coin, is available to play or simulate the play
20 of the game of poker utilizing a video display and
21 microprocessors and in which, whether by the skill of the player
22 or by chance, the player may receive free games or credits which
23 can be redeemed for cash or anything of value.

24 Section 3. Powers and duties of department.

25 (a) General powers and duties.--The department has the power
26 and duty:

27 (1) To promulgate regulations to:

28 (i) Provide for licensing procedures under this act.

29 (ii) Prescribe necessary application and reporting
30 forms to be used under this act.

(iii) Prescribe electronic accounting devices
necessary to verify reports to be used in this act.

(2) To grant or deny license applications.

(3) To employ enforcement agents and other employees
necessary to carry out the functions of the department under
this act. Persons employed must be citizens of the United
States. Persons employed must not have a direct or indirect
interest in a person or entity licensed under this act.
Persons employed shall be fingerprinted and bonded. The
department may not employ persons who have done one of the
following:

(i) Been convicted of or pleaded guilty or no
contest to a felony.

(ii) Been convicted of, pleaded guilty or no contest
to, paid a fine for, or forfeited a bond to appear in
relation to a violation of a Federal or state statute
concerning gambling or lottery devices, equipment or
games.

~~(3)~~ (4) Inspect and approve a video poker machine
representative of each type of machine to be used in video
poker games and conduct spot inspections of video poker
machines on premises where they are being played to ensure
that the devices comply with this act and regulations
promulgated under paragraph (1) and that the devices do not
vary in a meaningful manner from the inspected and approved
representative device of the same type.

(b) License approval.--The department may not grant an
applicant a MACHINE OWNER OR LICENSED ESTABLISHMENT license
unless:

(1) If the applicant is an individual all of the

1 following apply:

2 (i) The applicant is an honest person of good
3 character and integrity and is qualified and has adequate
4 financing from suitable sources.

5 (ii) The applicant is a citizen of the United States
6 and a resident of this Commonwealth for at least two
7 years previous to the application.

8 (iii) The applicant has not been convicted of nor
9 pleaded guilty or no contest to a felony.

10 (iv) The applicant has not been convicted of,
11 pleaded guilty or no contest to, paid a penalty for, nor
12 forfeited a bond to appear in relation to a violation of
13 a Federal or state statute concerning gambling or lottery
14 devices, equipment or games.

15 (v) The applicant has no direct or indirect interest
16 in a person or entity holding a type of license other
17 than the type for which the applicant is applying.

18 (2) If the applicant is a partnership, the partners,
19 general and limited, qualify as individuals under paragraph
20 (1).

21 (3) If the applicant is a corporation all of the
22 following apply:

23 (i) It is a registered Pennsylvania corporation for
24 at least two years.

25 (ii) At least 50% of its directors are Pennsylvania
26 residents for at least two years.

27 (iii) All officers qualify as individuals under
28 paragraph (1).

29 (iv) Its stockholders are individuals.

30 (v) Every stockholder owning 5% or more of the stock

1 of the corporation qualifies as an individual under
2 paragraph (1).

3 (c) Hearing.--A person who was denied a license has the
4 right to a hearing before the department. The hearing shall be
5 conducted under 2 Pa.C.S. Ch. 5, Subch. A (relating to practice
6 and procedure of Commonwealth agencies).

7 (d) Winning percentage.--The department shall prescribe
8 necessary machine accounting information under subsection
9 (a)(1)(iii). Video poker machines shall be set to award players
10 minimum winnings of 78%. Video poker machines shall have
11 electronic accounting devices to verify revenue due and winning
12 percentages.

13 (e) Violations.--The department shall investigate, penalize
14 civilly and suspend or revoke licenses for violations of this
15 act and shall hold hearings in which to consider these matters.
16 A license may not be suspended or revoked until a hearing is
17 completed. The fine for a violation of ~~regulations promulgated~~ <—
18 ~~under~~ this act may not exceed \$5,000 for the first violation and
19 \$15,000 for each subsequent violation. In addition to the fine,
20 interest on any moneys held improperly, as the department may
21 prescribe, shall be collected.

22 Section 4. Use of enforcement agents.

23 (a) Powers.--Employees of the department designated as
24 enforcement agents are empowered to investigate the background
25 and associates of license applicants to whatever extent is
26 judged necessary by the department. No investigation may be
27 undertaken prior to the submission of an application for a
28 license by a party. No investigation may continue subsequent to
29 the granting of a license, the denial of a license or the
30 withdrawal of a license application.

1 (b) Authority.--Enforcement agents are empowered to be peace
2 officers and shall have police power and authority throughout
3 this Commonwealth to arrest, on view or under warrant, a person
4 who is violating a criminal provision of this act.

5 (c) Investigation and report.--Enforcement agents may
6 investigate alleged illegal activities concerning video poker
7 machines and their operation, maintenance and placement.
8 Findings shall be reported in writing to the department. The
9 department shall relay suspected criminal activity or violations
10 of the law to the appropriate district attorney for prosecution.

11 (d) State and local police.--In addition to any other person
12 authorized to enforce the provisions of this act, the
13 Pennsylvania State Police and police of participating political
14 subdivisions are empowered to enforce this act.

15 Section 5. Unlawful use by minors.

16 (a) Minors.--No person under 21 years of age may use or play
17 the video poker machines. A minor using or playing or attempting
18 to use or play a video poker machine commits a summary offense
19 and shall, upon conviction, pay a fine not in excess of \$1,000.

20 (b) Licensees.--A licensed establishment which permits a
21 person under 21 years of age to play or use the video poker
22 machines, whether or not that licensed establishment is actually
23 aware of the minor's age, commits a summary offense and shall,
24 upon conviction, pay a fine not in excess of \$5,000. The
25 establishment of the following facts by a person allowing a
26 minor to operate the video poker machines constitutes a defense
27 to prosecution under this subsection:

28 (1) The minor falsely represented in writing that the
29 minor was 21 years of age or older.

30 (2) The appearance of the minor was such that an

ordinary person of prudent judgment would believe the minor to be 21 years of age or older.

(3) The permission to operate the video poker machines was made in good faith, relying upon written representation and appearance and in the reasonable belief that the minor was actually 21 years of age or older.

Section 6. Direct dispensing.

A video poker machine may not directly dispense coins, cash, tokens, ~~tickets~~ or any other article of exchange or value EXCEPT <—
FOR RECEIPTS TICKETS. SUCH TICKETS SHALL BE DISPENSED BY
PRESSING THE TICKET-DISPENSING BUTTON ON THE MACHINE AT THE END
OF ONE'S TURN OF PLAY. THE TICKET SHALL INDICATE THE TOTAL
AMOUNT OF CREDITS AND PRIZE MONEY WON, AND THE PLAYER SHALL TURN <—
IN THIS TICKET TO THE APPROPRIATE PERSON AT THE LICENSED
ESTABLISHMENT TO RECEIVE HIS PRIZE MONEY. THE COST OF A CREDIT
SHALL BE 25¢ AND THE NUMBER OF CREDITS PLAYED PER GAME SHALL NOT
EXCEED FOUR. NO PRIZE FOR ANY INDIVIDUAL GAME SHALL EXCEED \$400.
A video poker machine shall be designed and manufactured to
record all use of the device and the amounts deposited in the
device.

Section 7. Local option.

~~(a) Placement on ballot. A majority of the voters of a <—
city, incorporated town, township or borough has the option to
reject the placement of video poker machines in its respective
political subdivision within 180 days from the effective date of
this act if the rejection is in conformity with the act of June
3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election
Code. The question shall be placed upon the ballot of that
political subdivision for the next regularly scheduled election
as a "no" question if 25% of the registered voters of that~~

1 ~~political subdivision sign a petition requesting that the~~
2 ~~question be put on the ballot. The results shall be transmitted~~
3 ~~to the Secretary of the Commonwealth, who shall have the duty of~~
4 ~~informing the department of the result.~~

5 (A) PLACEMENT ON BALLOT.--A MAJORITY OF THE VOTERS OF A <—
6 COUNTY HAVE THE OPTION TO APPROVE OR RESCIND APPROVAL OF THE
7 PLACEMENT OF VIDEO POKER MACHINES WITHIN ITS BOUNDARIES IF
8 APPROVAL OR RESCISSION OF APPROVAL IS IN CONFORMITY WITH THE ACT
9 OF JUNE 3, 1937 (P.L.1333, NO.320), KNOWN AS THE PENNSYLVANIA
10 ELECTION CODE. THE QUESTION SHALL BE PLACED UPON THE BALLOT OF
11 THAT COUNTY FOR THE NEXT REGULARLY SCHEDULED ELECTION IF 15% OF
12 THE REGISTERED VOTERS OF THAT COUNTY SIGN A PETITION REQUESTING
13 THAT THE QUESTION BE PUT ON THE BALLOT. VOTES SHALL BE TOTALED
14 BY MUNICIPALITY AND THE QUESTION SHALL ONLY BE CONSIDERED
15 APPROVED IN A PARTICULAR MUNICIPALITY IF A MAJORITY OF THE
16 VOTERS VOTING IN BOTH THE COUNTY AND THAT MUNICIPALITY VOTED
17 AFFIRMATIVELY ON THE QUESTION. THE RESULTS SHALL BE TRANSMITTED
18 TO THE SECRETARY OF THE COMMONWEALTH, WHO SHALL HAVE THE DUTY OF
19 INFORMING THE DEPARTMENT OF THE RESULT.

20 (b) Special election.--No special election shall be held to
21 answer this question. However, if a special election is held to
22 decide other matters, this question may properly be placed on
23 that ballot along with the other matters to be decided.

24 (C) RESTRICTION.--NOTWITHSTANDING THE PROVISIONS OF <—
25 SUBSECTIONS (A) AND (B), NO ELECTION FOR THE PURPOSE OF DECIDING
26 WHETHER VIDEO POKER MACHINES MAY BE PLACED IN LICENSED
27 ESTABLISHMENTS WITHIN ANY MUNICIPALITY IN ANY COUNTY OR
28 RESCINDING SUCH A DECISION MAY BE HELD WITHIN TWO YEARS OF ANY
29 PRIOR ELECTION IN WHICH SUCH A QUESTION APPEARED ON THE BALLOT.
30 Section 8. Authority to license.

1 (a) Types of license.--After approving the proper
2 applications, the department may issue the following licenses:

3 (1) A manufacturer's license may be issued to an
4 individual, partnership or corporation that manufactures,
5 assembles or produces video poker machines for use in this
6 Commonwealth. The annual fee shall be \$25,000.

7 (2) A distributor's license may be issued to an
8 individual, partnership or corporation that buys, sells,
9 leases or distributes video poker machines in this
10 Commonwealth. The annual fee shall be \$10,000.

11 (3) A machine owner's license may be issued to a person
12 who owns, services and maintains video poker machines for
13 placement in licensed establishments. The annual fee shall be
14 \$25,000 for the first 50 individual video poker machine
15 licenses. For each additional video poker machine, the annual
16 fee shall be \$500 per machine. Every video poker machine in
17 use in this Commonwealth must have a current \$500 license
18 displayed. Every video poker machine licensed under this act
19 must be manufactured by an individual, partnership or
20 corporation licensed under paragraph (1).

21 (4) A licensed establishment shall obtain a licensed
22 establishment license in order to have video poker machines
23 on its premises. The annual fee for the license shall be as
24 follows:

25 (i) Class I - \$500 (for up to and including three
26 video poker machines).

27 (ii) Class II - \$1,500 (for up to and including five
28 video poker machines).

29 (iii) Class III - \$5,000 (for up to and including
30 ten video poker machines).

1 (b) Requirements.--For a licensed establishment which uses
2 video poker machines, THE NUMBER OF VIDEO POKER MACHINES ALLOWED <—
3 SHALL BE TWO FOR THE FIRST 500 SQUARE FEET OF SERVING AREA
4 WITHIN THE ESTABLISHMENT AND ONE FOR EACH ADDITIONAL 500 SQUARE
5 FEET OF SERVING AREA WITHIN THE ESTABLISHMENT AND the maximum
6 number of video poker machines allowed shall be ten. No video
7 poker machines may be placed in a licensed establishment unless
8 the owner, or, in the case of a club, the proper authority of
9 the licensed establishment, has entered into a contract with a
10 machine owner for the placement of the machines for a minimum
11 term of one year.

12 (c) Licensees.--No person may hold more than one type of
13 license, directly or indirectly, or have any interest therein.

14 (d) Incentives.--A machine owner may not give and a licensed
15 establishment may not receive an incentive. A person who
16 violates this subsection commits a misdemeanor of the third
17 degree and shall, upon conviction, be sentenced to pay a fine of
18 \$1,000, or to imprisonment for not more than one year, or both.
19 Section 9. Distribution of proceeds.

20 (A) COLLECTION.--GROSS PROCEEDS SHALL BE COLLECTED BY THE <—
21 MACHINE OWNER FOR EACH LICENSED VIDEO POKER MACHINE.

22 ~~(a)~~ (B) Manner of distribution.--The net profits derived <—
23 from a video poker machine shall be distributed BY THE MACHINE <—
24 OWNER as follows:

25 (1) ~~Twenty-five~~ THIRTY percent to the machine owner. <—

26 (2) Twenty-five percent to the licensed establishment
27 where the machine is located.

28 (3) ~~Forty~~ TWENTY-FIVE percent to ~~county governments to~~ <—
29 ~~finance local public transportation.~~ THE TREASURER OF THE <—
30 COUNTY IN WHICH THE MACHINE IS LOCATED FOR GENERAL COUNTY

PURPOSES.

(4) ~~Ten~~ TWENTY percent to local governments to be used
for property tax relief as set forth in section 10.

~~(b) Collection. Net profits shall be collected by the
machine owner for each licensed video poker machine.~~

(c) Reports.--The machine owner shall make a report to the
county treasurer and the department each month with the
following information:

(1) Serial number of each video poker machine electronic
accounting device.

(2) Name and address of premises where machine is
located.

(3) Computer printout of the net profits of each machine
taken directly from the electronic accounting device.

Section 10. Local government revenues.

(a) Distribution.--The owner of each video poker machine
shall send a monthly report and the ~~10%~~ 20% of machine net
profits to the treasurer of the county where the machines are
located to be distributed TO MUNICIPALITIES AND SCHOOL DISTRICTS
WHERE THE MACHINES ARE LOCATED within 30 days as follows:

(1) Fifty percent to school districts.

(2) Fifty percent to municipalities ~~other than counties.~~

(b) Purpose.--It is the intent of the General Assembly that
the moneys distributed ~~in~~ UNDER this section be used to reduce
property taxes.

SECTION 11. CITIES OF THE FIRST CLASS.

(A) MANNER OF DISTRIBUTION.--THE NET PROFITS DERIVED FROM A
VIDEO POKER MACHINE IN A CITY OF THE FIRST CLASS SHALL BE
DISTRIBUTED AS FOLLOWS:

(1) THIRTY PERCENT TO THE MACHINE OWNER.

(2) TWENTY-FIVE PERCENT TO THE LICENSED ESTABLISHMENT
WHERE THE MACHINE IS LOCATED.

(3) TWENTY PERCENT TO THE CITY FOR GENERAL PURPOSES.

(4) TEN PERCENT TO THE CITY FOR LOCAL TAX RELIEF.

(5) TEN PERCENT TO THE SCHOOL DISTRICT FOR LOCAL TAX
RELIEF.

(6) FIVE PERCENT FOR NONRESIDENT WAGE TAX REDUCTION.

(B) COLLECTION.--NET PROFITS SHALL BE COLLECTED BY THE
MACHINE OWNER FOR EACH LICENSED VIDEO POKER MACHINE.

(C) REPORTS.--THE MACHINE OWNER SHALL MAKE A REPORT TO THE
CITY TREASURER AND THE DEPARTMENT EACH MONTH WITH THE FOLLOWING
INFORMATION:

(1) SERIAL NUMBER OF EACH VIDEO POKER MACHINE ELECTRONIC
ACCOUNTING DEVICE.

(2) NAME AND ADDRESS OF PREMISES WHERE MACHINE IS
LOCATED.

(3) COMPUTER PRINTOUT OF THE NET PROFITS OF EACH MACHINE
TAKEN DIRECTLY FROM THE ELECTRONIC ACCOUNTING DEVICE.

(D) DISTRIBUTION.--THE OWNER OF EACH VIDEO POKER MACHINE
SHALL SEND A MONTHLY REPORT AND THE 50% OF MACHINE NET PROFITS
TO THE CITY TREASURER TO BE DISTRIBUTED WITHIN 30 DAYS.

Section ~~11~~ 12. Creation of account.

Revenues from licenses and fines under this act shall be
placed in a restricted revenue account to fund the operation of
the department as required by this act, including, but not
limited to, salaries and administrative expenses. The department
shall allocate a minimum of \$1,000,000 annually to be used for
treatment of compulsive gamblers by Gamblers Anonymous in
accordance with regulations to be adopted by the department.

Section ~~12~~ 13. Preemption of local taxes and license fees.

1 Video poker machines ~~and coin-operated amusement machines~~ <—
2 LOCATED IN PARTICIPATING POLITICAL SUBDIVISIONS shall be exempt <—
3 from taxes levied under the act of August 5, 1932 (Sp.Sess.,
4 P.L.45, No.45), referred to as the Sterling Act, the act of
5 December 31, 1965 (P.L.1257, No.511), known as The Local Tax
6 Enabling Act, or the act of April 13, 1972 (P.L.184, No.62),
7 known as the Home Rule Charter and Optional Plans Law.
8 Section ~~13~~ 14. Existing machines. <—
9 Video poker machines manufactured and sold to machine owners
10 or distributors prior to the effective date of this act ~~are~~ <—
11 ~~exempt from the manufacturing provisions of this act. These~~
12 ~~machines shall be considered to have been manufactured,~~
13 ~~distributed, sold and used legally in this Commonwealth. MUST~~ <—
14 CONFORM WITH OR BE MADE TO CONFORM WITH THIS ACT AND THE
15 REGULATIONS PROMULGATED HEREUNDER, IN ORDER TO BE LICENSED FOR
16 USE IN THIS COMMONWEALTH.
17 Section ~~14~~ 15. Penalty. <—
18 (a) Manufacture.--A person may not manufacture, assemble or
19 produce a video poker machine in this Commonwealth unless the
20 person has a valid manufacturer's license issued under section
21 8(a)(1).
22 (b) Distribution.--A person may not sell, distribute, lease
23 or market a video poker machine in this Commonwealth unless the
24 person has a valid distributor's license issued under section
25 8(a)(2).
26 (c) Use.--A person may not offer, enable or allow the
27 playing of video poker at an establishment unless that
28 establishment has a valid licensed establishment license issued
29 under section 8(a)(4). A person with a valid licensed
30 establishment license may not have more than ten video poker

1 machines in a licensed establishment at the same time. NO <—
2 LICENSEE SHALL PERMIT ANY CUSTOMER TO PLAY A VIDEO POKER MACHINE
3 WHEN SAID CUSTOMER IS VISIBLY INTOXICATED.

4 (d) Tampering.--A person may not manipulate the outcome or
5 payoff of a video poker machine through interference with the
6 proper functioning of the mechanism.

7 (e) Classification.--

8 (1) A person who violates this section commits a
9 misdemeanor of the third degree and shall, upon conviction,
10 be sentenced to pay a fine of \$1,000, or to imprisonment for
11 not more than one year, or both.

12 (2) A person who violates this section a second time
13 commits a misdemeanor of the second degree and shall, upon
14 conviction, be sentenced to pay a fine of \$2,000, or to
15 imprisonment for not more than two years, or both.

16 (3) A person who violates this section a third and
17 subsequent time commits a misdemeanor of the ~~third~~ FIRST <—
18 degree and shall, upon conviction, be sentenced to pay a fine
19 of \$5,000, or to imprisonment for not more than five years,
20 or both.

21 (4) ANY PERSON WHO VIOLATES THIS SECTION SHALL BE LIABLE <—
22 TO ANY PERSONS ON ACCOUNT OF ANY DAMAGES INCURRED BY THEM
23 RESULTING FROM ANY VIOLATION OF THIS SECTION.

24 Section ~~15~~ 16. Exemption from State gambling laws. <—

25 Video poker machines and their use are exempt from 18 Pa.C.S.
26 § 5513 (relating to gambling devices, gambling, etc).

27 Section ~~16~~ 17. Exemption from Federal regulation. <—

28 The General Assembly declares that the Commonwealth is exempt
29 from section 2 of the Gambling Devices Transportation Act (64
30 Stat. 1134, 15 U.S.C. § 1172). Shipments of video devices into

1 this Commonwealth in compliance with sections 3 and 4 of the
2 Gambling Devices Transportation Act (64 Stat. 1134, 15 U.S.C. §§
3 1173 and 1174) shall be deemed legal shipments into this
4 Commonwealth.

5 Section ~~17~~ 18. Effective date.

<—

6 This act shall take effect in 60 days.