

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1136 Session of
1989

INTRODUCED BY PUNT, BRIGHTBILL, LEMMOND, BELL, WENGER, CORMAN,
HOPPER, RHOADES, BAKER AND WILT, JUNE 28, 1989

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 13, 1990

AN ACT

1 ~~Amending the act of August 26, 1971 (P.L.351, No.91), entitled~~ <—
2 ~~"An act providing for a State Lottery and administration~~
3 ~~thereof; authorizing the creation of a State Lottery~~
4 ~~Commission; prescribing its powers and duties; disposition of~~
5 ~~funds; violations and penalties therefor; exemption of prizes~~
6 ~~from State and local taxation and making an appropriation,"~~
7 ~~providing that there shall be no drawings or selections of~~
8 ~~winning tickets on Sundays.~~
9 PROVIDING FOR CONTROL AND LICENSING OF VIDEO POKER MACHINES IN <—
10 THIS COMMONWEALTH; CREATING THE VIDEO POKER MACHINE CONTROL
11 COMMISSION AND PROVIDING FOR ITS POWERS AND DUTIES; AND
12 PROVIDING FOR LOCAL OPTION AND FOR DISTRIBUTION OF REVENUE.
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3 SECTION ~~21~~ 22. EFFECTIVE DATE. <—

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

6 ~~Section 1. Section 6(a)(6) of the act of August 26, 1971~~ <—
7 ~~(P.L.351, No.91), known as the State Lottery Law, is amended to~~
8 ~~read:~~

9 ~~Section 6. Powers and Duties of the Secretary of Revenue.~~
10 ~~(a) In addition to the powers and duties provided by law and~~
11 ~~"The Administrative Code of 1929," the Secretary of Revenue~~
12 ~~shall have the power and it shall be his duty to operate and~~
13 ~~administer the lottery, and to promulgate rules and regulations~~
14 ~~governing the establishment and operation thereof, including but~~
15 ~~not limited to:~~

16 * * *

17 ~~(6) The frequency of the drawings or selections of winning~~
18 ~~tickets or shares, [without limitation] except that no drawings~~
19 ~~or selections may occur on Sundays.~~

20 * * *

21 ~~Section 2. This act shall take effect immediately.~~

22 SECTION 1. SHORT TITLE. <—

23 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE VIDEO POKER
24 MACHINE CONTROL LAW.

25 SECTION 2. DEFINITIONS.

26 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
27 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
28 CONTEXT CLEARLY INDICATES OTHERWISE:

29 "COMMISSION." THE VIDEO POKER MACHINE CONTROL COMMISSION
30 CREATED BY THIS ACT.

31 "DISTRIBUTOR." AN INDIVIDUAL, PARTNERSHIP OR CORPORATION

1 LICENSED UNDER THIS ACT TO BUY, SELL, LEASE OR DISTRIBUTE VIDEO
2 POKER MACHINES. THE TERM EXCLUDES MACHINE OWNERS AND
3 MANUFACTURERS.

4 "GROSS PROCEEDS." THE TOTAL AMOUNT OF MONEY PLACED INTO
5 VIDEO POKER MACHINES.

6 "INCENTIVE." A CONSIDERATION, INCLUDING A PREMIUM OR BONUS
7 IN CASH OR ADVANCE COMMISSION OR MERCHANDISE, OFFERED FROM A
8 MACHINE OWNER TO A LICENSED ESTABLISHMENT IN ORDER TO SOLICIT
9 ITS BUSINESS.

10 "LICENSED ESTABLISHMENT." A RESTAURANT, BAR, TAVERN, HOTEL
11 OR CLUB WHICH HAS A VALID LIQUOR OR MALT BEVERAGE LICENSE UNDER
12 THE ACT OF APRIL 12, 1951 (P.L.90, NO.21), KNOWN AS THE LIQUOR
13 CODE, AND WHICH IS LOCATED WITHIN A PARTICIPATING POLITICAL
14 SUBDIVISION.

15 "MACHINE OWNER." AN INDIVIDUAL, PARTNERSHIP OR CORPORATION
16 WHICH IS LICENSED UNDER THIS ACT AND WHICH OWNS, SERVICES AND
17 MAINTAINS VIDEO POKER MACHINES FOR PLACEMENT IN LICENSED
18 ESTABLISHMENTS.

19 "MANUFACTURER." AN INDIVIDUAL, PARTNERSHIP OR CORPORATION
20 WHICH IS LICENSED UNDER THIS ACT AND WHICH MANUFACTURES OR
21 ASSEMBLES VIDEO POKER MACHINES.

22 "MUNICIPALITY." A CITY, BOROUGH, INCORPORATED TOWN OR
23 TOWNSHIP OR A HOME RULE MUNICIPALITY FORMERLY CLASSIFIED AS A
24 CITY, BOROUGH, INCORPORATED TOWN OR TOWNSHIP.

25 "NET PROFITS." GROSS PROCEEDS AFTER AWARDS HAVE BEEN PAID.

26 "PARTICIPATING POLITICAL SUBDIVISIONS." ANY CITY,
27 INCORPORATED TOWN, TOWNSHIP, BOROUGH OR HOME RULE MUNICIPALITY
28 WHERE VIDEO POKER MACHINES ARE IN USE IN ACCORDANCE WITH THIS
29 ACT.

30 "PERSON." INCLUDES A CORPORATION, PARTNERSHIP AND

1 ASSOCIATION, AS WELL AS A NATURAL PERSON.

2 "VIDEO POKER MACHINES." A DEVICE OR MACHINE WHICH, UPON
3 INSERTION OF A COIN OR CURRENCY, WILL PLAY OR SIMULATE THE PLAY
4 OF THE GAME OF POKER, UTILIZING A VIDEO DISPLAY AND
5 MICROPROCESSORS AND IN WHICH, BY THE SKILL OF THE PLAYER OR BY
6 CHANCE, THE PLAYER MAY RECEIVE FREE GAMES OR CREDITS WHICH MAY
7 BE REDEEMED FOR CASH. NO MACHINE SHALL DIRECTLY DISPENSE ANY
8 COINS, CASH, TOKENS OR ANYTHING OF VALUE. ALL MACHINES MUST
9 CONTAIN ELECTRONIC INFORMATION VERIFYING TRANSMITTING
10 COMPONENTS.

11 SECTION 3. VIDEO POKER MACHINE CONTROL COMMISSION.

12 (A) COMMISSION CREATED.--AN INDEPENDENT COMMISSION, TO BE
13 KNOWN AS THE VIDEO POKER MACHINE CONTROL COMMISSION IS HEREBY
14 CREATED. THE COMMISSION SHALL CONSIST OF FIVE MEMBERS, ONE TO BE
15 APPOINTED BY THE GOVERNOR, ONE BY THE SPEAKER OF THE HOUSE OF
16 REPRESENTATIVES, ONE BY THE PRESIDENT PRO TEMPORE OF THE SENATE,
17 ONE BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES AND
18 ONE BY THE MINORITY LEADER OF THE SENATE.

19 (B) MEMBERS.--OF THE ORIGINAL MEMBERS, TWO SHALL BE
20 APPOINTED FOR A TERM OF TWO YEARS, TWO FOR A TERM OF FOUR YEARS
21 AND ONE FOR A TERM OF SIX YEARS. THOSE APPOINTED BY THE MINORITY
22 LEADER OF THE HOUSE OF REPRESENTATIVES AND THE MINORITY LEADER
23 OF THE SENATE SHALL SERVE THE INITIAL TWO-YEAR TERM. THOSE
24 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
25 PRESIDENT PRO TEMPORE OF THE SENATE SHALL SERVE THE INITIAL
26 FOUR-YEAR TERMS. THE GOVERNOR'S APPOINTMENT SHALL SERVE THE
27 INITIAL SIX-YEAR TERM. THEREAFTER, ALL APPOINTMENTS SHALL BE FOR
28 TERMS OF SIX YEARS OR UNTIL SUCCESSORS ARE APPOINTED AND
29 QUALIFIED. ALL SUCCESSORS SHALL BE APPOINTED BY THE SAME
30 APPOINTING AUTHORITY AS THE MEMBERS WHOM THEY ARE REPLACING.

(C) COMPENSATION AND EXPENSES.--THE MEMBERS OF THE COMMISSION SHALL BE COMPENSATED AT A RATE OF \$125 PER DAY AND SHALL RECEIVE REIMBURSEMENT FOR THEIR ACTUAL AND NECESSARY EXPENSES WHILE PERFORMING THE BUSINESS OF THE COMMISSION.

SECTION 4. QUALIFICATIONS.

(A) CITIZENSHIP AND RESIDENCY.--EACH MEMBER OF THE COMMISSION, AT THE TIME OF APPOINTMENT AND QUALIFICATION, 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 AT LEAST TWO YEARS PRECEDING THE MEMBER'S APPOINTMENT.

(B) OFFICES.--NO MEMBER OF THE COMMISSION SHALL, DURING THE MEMBER'S PERIOD OF SERVICE, HOLD ANY OTHER OFFICE UNDER THE LAWS OF THIS COMMONWEALTH OR THE UNITED STATES OR SEEK ELECTED OFFICE OF ANY KIND WITHIN THIS COMMONWEALTH OR THE UNITED STATES.

SECTION 5. CHAIRMAN OF COMMISSION; QUORUM.

(A) APPOINTMENT.--THE MEMBER APPOINTED BY THE GOVERNOR SHALL SERVE AS CHAIRMAN. THE CHAIRMAN SHALL, WHEN PRESENT, PRESIDE AT ALL MEETINGS. IN THE CHAIRMAN'S ABSENCE, A MEMBER DESIGNATED BY THE COMMISSION SHALL PRESIDE.

(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.

SECTION 6. DIRECTOR.

THE COMMISSION MAY APPOINT AN EXECUTIVE DIRECTOR TO HOLD OFFICE AT ITS PLEASURE. THE DIRECTOR SHALL HAVE POWERS AND DUTIES AS THE COMMISSION SHALL PRESCRIBE AND SHALL RECEIVE COMPENSATION AS THE COMMISSION SHALL DETERMINE. THE DIRECTOR SHALL HAVE THE AUTHORITY TO EMPLOY PERSONNEL NECESSARY TO CARRY OUT THE DUTIES OF OFFICE.

1 SECTION 7. POWERS AND DUTIES OF COMMISSION.

2 (A) GENERAL POWERS AND DUTIES.--THE COMMISSION SHALL:

3 (1) PROVIDE FOR LICENSING AND FOR DISTRIBUTION OF
4 REVENUE.

5 (2) PRESCRIBE ALL NECESSARY APPLICATION AND REPORTING
6 FORMS.

7 (3) GRANT OR DENY LICENSE APPLICATIONS.

8 (4) PRESCRIBE TYPES OF VIDEO POKER MACHINES TO BE USED.

9 (B) LICENSE APPROVAL.--THE COMMISSION MAY NOT DENY ANY
10 APPLICATION OR LIMIT, CONDITION OR RESTRICT ANY LICENSE EXCEPT
11 FOR NONCONFORMANCE WITH THIS ACT. AN APPLICANT SHALL NOT BE
12 GRANTED A LICENSE UNLESS:

13 (1) IF THE APPLICANT IS AN INDIVIDUAL:

14 (I) THE APPLICANT IS OF GOOD CHARACTER, HONESTY AND
15 INTEGRITY AND IN ALL RESPECTS IS QUALIFIED AND HAS
16 ADEQUATE FINANCING FROM SUITABLE SOURCES.

17 (II) IF THE APPLICANT IS A DISTRIBUTOR OR MACHINE
18 OWNER THE APPLICANT HAS BEEN A CITIZEN OF THE UNITED
19 STATES AND A RESIDENT OF THIS COMMONWEALTH FOR AT LEAST
20 TWO YEARS PRIOR TO THE APPLICATION.

21 (2) IF THE APPLICANT IS A PARTNERSHIP, ALL PARTNERS
22 QUALIFY AS INDIVIDUALS UNDER PARAGRAPH (1).

23 (3) IF THE APPLICANT IS A DISTRIBUTOR OR MACHINE OWNER
24 AND A CORPORATION:

25 (I) IT IS A REGISTERED PENNSYLVANIA CORPORATION FOR
26 AT LEAST ONE YEAR.

27 (II) AT LEAST 50% OF ITS DIRECTORS HAVE BEEN
28 PENNSYLVANIA RESIDENTS FOR AT LEAST TWO YEARS.

29 (III) ALL OFFICERS QUALIFY AS INDIVIDUALS UNDER
30 PARAGRAPH (1).

1 (IV) ALL STOCKHOLDERS ARE INDIVIDUALS.

2 (4) THE STATEMENT OF INTENT TO APPLY FOR A
3 MANUFACTURER'S, DISTRIBUTOR'S OR MACHINE OWNER'S LICENSE HAS
4 BEEN FILED AND THE PROPER FEES PAID. <—

5 (C) HEARING AND APPEALS.--ANY PERSON WHO WAS DENIED A
6 LICENSE SHALL HAVE THE RIGHT TO A HEARING BEFORE THE COMMISSION.
7 THE HEARING SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS
8 OF 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW AND PROCEDURE). AN
9 AGGRIEVED PARTY SHALL HAVE THE RIGHT TO APPEAL THE DECISION ON
10 LICENSE DENIAL TO THE COURT OF COMMON PLEAS IN THE JUDICIAL
11 DISTRICT HAVING JURISDICTION OVER THE APPLICANT AND/OR THE
12 LICENSED PREMISES.

13 (D) WINNING PERCENTAGE.--THE COMMISSION SHALL PRESCRIBE
14 WINNING PERCENTAGES AND NECESSARY MACHINE ACCOUNTING
15 INFORMATION. CENTRAL AUDITING IS REQUIRED AND THE COMMISSION
16 SHALL PROVIDE LICENSED MANUFACTURERS OR MANUFACTURERS APPLYING
17 FOR LICENSURE THE PROTOCOL DOCUMENTATION NECESSARY TO ENABLE
18 THEIR VIDEO POKER MACHINES TO COMMUNICATE WITH THE COMMISSION'S
19 CENTRAL COMPUTER IN PROVIDING THE AUDITING PROGRAM INFORMATION
20 AND CONTROLS APPROVED BY THE COMMISSION. ALL VIDEO POKER
21 MACHINES WILL BE SET AT A MINIMUM WIN PERCENTAGE OF 80%. ALL
22 VIDEO POKER MACHINES WILL HAVE METERING DEVICES TO VERIFY THE
23 WINNING PERCENTAGES.

24 (E) VIOLATIONS.--THE COMMISSION SHALL INVESTIGATE LICENSEES
25 FOR VIOLATIONS OF THIS ACT AND SHALL HOLD HEARINGS IN WHICH TO
26 CONSIDER THESE MATTERS. HEARINGS AND APPEALS SHALL BE CONDUCTED
27 IN THE SAME MANNER AS SET FORTH IN SUBSECTION (C). THE
28 COMMISSION SHALL HAVE AUTHORITY TO SUSPEND OR REVOKE A LICENSE
29 IF IT FINDS THAT A VIOLATION OF THIS ACT HAS OCCURRED. NO
30 LICENSE SHALL BE SUSPENDED OR REVOKED UNTIL A HEARING IS

1 COMPLETED. THE FINE FOR A VIOLATION OF PROVISIONS OF THIS ACT OR
2 OF REGULATIONS ADOPTED UNDER THIS ACT SHALL NOT EXCEED \$5,000
3 FOR THE FIRST OFFENSE AND \$15,000 FOR EACH SUBSEQUENT VIOLATION.

4 (F) STANDARDS OF CONDUCT.--THE COMMISSION SHALL PRESCRIBE
5 RULES AND REGULATIONS FOR THE CONDUCT OF THE OFFICERS, EMPLOYEES
6 AND AGENTS OF THE COMMISSION.

7 (G) REGULATION.--THE COMMISSION SHALL PROMULGATE REGULATIONS
8 TO CARRY OUT THE PROVISIONS OF THIS ACT.

9 SECTION 8. USE OF ENFORCEMENT AGENTS.

10 (A) POWERS.--EMPLOYEES OF THE COMMISSION DESIGNATED AS
11 ENFORCEMENT AGENTS SHALL BE EMPOWERED TO INVESTIGATE THE
12 BACKGROUND AND ASSOCIATES OF EVERY LICENSE APPLICANT TO WHATEVER
13 EXTENT IS JUDGED NECESSARY BY THE COMMISSION. NO INVESTIGATION
14 SHALL BE UNDERTAKEN PRIOR TO THE SUBMISSION OF AN APPLICATION
15 FOR A LICENSE BY A PARTY, AND NO INVESTIGATION SHALL CONTINUE
16 SUBSEQUENT TO THE DENIAL OF A LICENSE OR THE WITHDRAWAL OF A
17 LICENSE APPLICATION.

18 (B) AUTHORITY.--ENFORCEMENT AGENTS ARE PEACE OFFICERS AND
19 SHALL HAVE POLICE POWER AND AUTHORITY THROUGHOUT THIS
20 COMMONWEALTH TO ARREST, ON VIEW OR UNDER WARRANT, ANY PERSON
21 TAMPERING WITH VIDEO POKER MACHINES, ATTEMPTING OR CONSPIRING TO
22 MANIPULATE THE OUTCOME OR THE PAYOFF OF ANY MACHINE, OR
23 MANIPULATING THE OUTCOME OR PAYOFF OF ANY MACHINE BY PHYSICAL
24 TAMPERING OR THROUGH THE INTERFERENCE OF THE LAWFUL OR PROPER
25 FUNCTIONING OF THE MECHANISM BY ANY MEANS WHATSOEVER.

26 (C) INVESTIGATION AND REPORT.--ENFORCEMENT AGENTS MAY
27 INVESTIGATE ANY ALLEGED ILLEGAL ACTIVITIES CONCERNING VIDEO
28 POKER MACHINES AND THEIR OPERATION, MAINTENANCE AND PLACEMENT.
29 FINDINGS SHALL BE REPORTED IN WRITING TO THE COMMISSION, WHICH
30 SHALL RELAY ANY SUSPECTED CRIMINAL ACTIVITY OR VIOLATIONS OF THE

1 LAW TO THE DISTRICT ATTORNEY FOR PROSECUTION.

2 (D) STATE AND LOCAL POLICE.--IN ADDITION TO ANY OTHER PERSON
3 AUTHORIZED TO ENFORCE THE PROVISIONS OF THIS ACT, THE
4 PENNSYLVANIA STATE POLICE AND POLICE OF PARTICIPATING POLITICAL
5 SUBDIVISIONS ARE EMPOWERED TO ENFORCE THIS ACT.

6 SECTION 9. UNLAWFUL USE BY MINORS.

7 (A) MINORS.--NO PERSON UNDER 21 YEARS OF AGE MAY USE OR PLAY
8 A VIDEO POKER MACHINE. A MINOR USING OR PLAYING OR ATTEMPTING TO
9 USE OR PLAY A VIDEO POKER MACHINE COMMITS A SUMMARY OFFENSE.

10 (B) LICENSEES.--A LICENSED ESTABLISHMENT IN WHICH A PERSON
11 UNDER 21 YEARS OF AGE PLAYS OR USES A VIDEO POKER MACHINE,
12 WHETHER OR NOT THAT LICENSED ESTABLISHMENT IS ACTUALLY AWARE OF
13 THE MINOR'S AGE, COMMITS A SUMMARY OFFENSE AND SHALL, UPON
14 CONVICTION, PAY A FINE OF NOT MORE THAN \$5,000. THE
15 ESTABLISHMENT OF ANY OF THE FOLLOWING FACTS BY A PERSON ALLOWING
16 A MINOR TO OPERATE THE VIDEO POKER MACHINES CONSTITUTES A
17 DEFENSE TO PROSECUTION UNDER THIS SUBSECTION:

18 (1) THE MINOR FALSELY REPRESENTED IN WRITING THAT THE
19 MINOR WAS 21 YEARS OF AGE OR OLDER.

20 (2) THE APPEARANCE OF THE MINOR WAS SUCH THAT AN
21 ORDINARY PERSON OF PRUDENT JUDGMENT WOULD BELIEVE THE MINOR
22 TO BE 21 YEARS OF AGE OR OLDER.

23 SECTION 10. DIRECT DISPENSING.

24 A VIDEO POKER MACHINE MAY NOT DIRECTLY DISPENSE COINS, CASH,
25 TOKENS OR ANY OTHER ARTICLE OF EXCHANGE OR VALUE EXCEPT FOR
26 RECEIPT TICKETS. SUCH TICKETS SHALL BE DISPENSED BY PRESSING THE
27 TICKET DISPENSING BUTTON ON THE MACHINE AT THE END OF ONE'S TURN
28 OR PLAY. THE TICKET SHALL INDICATE THE TOTAL AMOUNT OF CREDITS
29 AND THE CASH AWARD, AND THE PLAYER SHALL TURN IN THIS TICKET TO
30 THE APPROPRIATE PERSON AT THE LICENSED ESTABLISHMENT TO RECEIVE

1 THE CASH AWARD. THE COST OF THE CREDIT SHALL BE 25¢, AND THE
2 NUMBER OF CREDITS PLAYED PER GAME SHALL NOT EXCEED EIGHT. VIDEO
3 POKER MACHINES SHALL NOT ACCEPT ANY MONEY DENOMINATION IN EXCESS
4 OF A \$5 BILL. NO CASH AWARD FOR ANY INDIVIDUAL GAME SHALL EXCEED
5 \$500. ALL VIDEO POKER MACHINES SHALL BE DESIGNED AND
6 MANUFACTURED WITH TOTAL ACCOUNTABILITY, TO INCLUDE GROSS
7 PROCEEDS, NET PROFITS, WINNING PERCENTAGES AND WITH THE ABILITY
8 TO ELECTRONICALLY VERIFY AND TRANSMIT TO A CENTRAL COMPUTER ANY
9 OTHER INFORMATION THE COMMISSION REQUIRES.

10 SECTION 11. LOCAL OPTIONS.

11 (A) ELECTION TO BE HELD.--IN ANY MUNICIPALITY, AN ELECTION
12 MAY BE HELD ON THE DATE OF A PRIMARY, MUNICIPAL OR GENERAL
13 ELECTION TO DETERMINE THE WILL OF THE ELECTORS WITH RESPECT TO
14 THE ISSUANCE OF LICENSES WITHIN THE LIMITS OF SUCH MUNICIPALITY
15 UNDER THE PROVISIONS OF THIS ACT. WHENEVER ELECTORS EQUAL TO AT
16 LEAST 25% OF THE HIGHEST VOTE CAST FOR ANY OFFICE IN THE
17 MUNICIPALITY AT THE LAST PRECEDING GENERAL ELECTION SHALL FILE A
18 PETITION WITH THE COUNTY BOARD OF ELECTIONS OF THE COUNTY, OR
19 THE GOVERNING BODY OF THE MUNICIPALITY ADOPTS, BY A MAJORITY
20 VOTE, A RESOLUTION TO PLACE SUCH A QUESTION ON THE BALLOT AND A
21 COPY OF THE RESOLUTION IS FILED WITH THE BOARD OF ELECTIONS OF
22 THE COUNTY, FOR A REFERENDUM ON THE QUESTION OF ISSUING
23 LICENSES, THE COUNTY BOARD OF ELECTIONS SHALL CAUSE A QUESTION
24 TO BE PLACED ON THE BALLOT OR ON THE VOTING MACHINE BOARD AND
25 SUBMITTED AT THE NEXT FOLLOWING PRIMARY, MUNICIPAL OR GENERAL
26 ELECTION. THE QUESTION SHALL BE IN THE FOLLOWING FORM:

27 DO YOU FAVOR THE ISSUANCE OF LICENSES TO PERMIT THE PLAY
28 OF VIDEO POKER IN THE OF ?

29 (B) VOTE.--IF A MAJORITY OF THE ELECTORS VOTING ON THE
30 QUESTION UNDER SUBSECTION (A) VOTE "YES", THEN LICENSES SHALL BE

1 ISSUED BY THE COMMISSION IN SUCH MUNICIPALITY, BUT IF A MAJORITY
2 OF THE ELECTORS VOTING ON SUCH QUESTION VOTE "NO", THEN THE
3 COMMISSION SHALL HAVE NO POWER TO ISSUE OR TO RENEW, UPON THEIR
4 EXPIRATION, ANY LICENSES IN SUCH MUNICIPALITY, UNLESS AND UNTIL,
5 AT A LATER ELECTION, A MAJORITY OF THE VOTING ELECTORS VOTE
6 "YES" ON SUCH QUESTION.

7 (C) VOTING PROCEDURES.--PROCEEDINGS UNDER THIS SECTION SHALL
8 BE IN ACCORDANCE WITH THE PROVISIONS OF THE ACT OF JUNE 3, 1937
9 (P.L.1333, NO.320), KNOWN AS THE PENNSYLVANIA ELECTION CODE.

10 (D) APPLICABILITY.--THIS ACT APPLIES ONLY TO THOSE LICENSED
11 ESTABLISHMENTS LOCATED IN MUNICIPALITIES WHICH HAVE ADOPTED THE
12 PROVISIONS OF THIS ACT BY AN AFFIRMATIVE VOTE IN A MUNICIPAL
13 REFERENDUM IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

14 (E) WITHDRAWAL OF APPROVAL.--THE REFERENDUM PROCEDURE
15 CONTAINED IN THIS SECTION SHALL ALSO BE AVAILABLE TO WITHDRAW
16 THE APPROVAL OF THE ISSUANCE OF LICENSES WITHIN THE MUNICIPALITY
17 WHICH WAS GRANTED THROUGH A PRIOR REFERENDUM.

18 SECTION 12. STATEMENT OF INTENT.

<—

19 (A) GENERAL RULE.--A PERSON WHO INTENDS TO APPLY FOR A
20 MANUFACTURER'S, DISTRIBUTOR'S OR MACHINE OWNER'S LICENSE, MUST
21 FIRST FILE A STATEMENT OF INTENT WITH THE COMMISSION. THE
22 STATEMENT SHALL INCLUDE:

23 (1) THE NAME AND ADDRESS OF THE PERSON, PARTNERSHIP OR
24 CORPORATION WHICH INTENDS TO FILE AN APPLICATION; AND

25 (2) THE TYPE OF LICENSE THAT WILL BE APPLIED FOR.

26 (B) FEE.--A \$2,500 FILING FEE MUST ACCOMPANY THE STATEMENT
27 OF INTENT.

28 (1) THE FILING FEE SHALL BE APPLIED TO THE APPLICANT'S
29 LICENSE FEE IF A LICENSE IS SUBSEQUENTLY APPROVED BY THE
30 COMMISSION.

(2) THE FULL FEE SHALL BE REFUNDED IF THE SUBSEQUENT APPLICATION IS DENIED BY THE COMMISSION.

(3) AN APPLICANT MAY ALSO WITHDRAW THE STATEMENT OF INTENT AT ANY TIME AND SHALL BE ENTITLED TO A FULL REFUND OF THE FEE.

(C) WHEN NOT REQUIRED.--THE STATEMENT OF INTENT IS NOT REQUIRED FOR RENEWAL OF A LICENSE NOR IS IT REQUIRED OF A LICENSED ESTABLISHMENT.

(D) WAIVER.--THE COMMISSION MAY WAIVE THE REQUIREMENT OF A STATEMENT OF INTENT 12 MONTHS OR MORE AFTER THE EFFECTIVE DATE OF THIS ACT IF THE COMMISSION CERTIFIES IT HAS SUFFICIENT FINANCES ON HAND TO MEET THE BUDGET REQUIREMENTS OF THIS ACT. THE CERTIFICATION SHALL BE PUBLISHED IN THE PENNSYLVANIA BULLETIN.

SECTION ~~12~~ 13. AUTHORITY TO LICENSE.

(A) TYPE OF LICENSES.--AFTER APPROVING THE PROPER APPLICATIONS, THE COMMISSION SHALL ISSUE THE FOLLOWING LICENSES:

(1) A MANUFACTURER'S LICENSE TO A PERSON THAT MANUFACTURES OR ASSEMBLES VIDEO POKER MACHINES FOR USE IN PENNSYLVANIA. THE ANNUAL FEE SHALL BE \$25,000.

(2) A DISTRIBUTOR'S LICENSE TO A PERSON THAT BUYS, SELLS OR SERVICES VIDEO POKER MACHINES IN PENNSYLVANIA OTHER THAN A MACHINE OWNER. THE ANNUAL FEE SHALL BE \$25,000.

(3) A MACHINE OWNER'S LICENSE TO A PERSON WHO OWNS, SERVICES AND MAINTAINS VIDEO POKER MACHINES FOR PLACEMENT IN LICENSED ESTABLISHMENTS. THE ANNUAL FEE SHALL BE \$25,000 FOR THE FIRST 50 INDIVIDUAL POKER MACHINE LICENSES. FOR EACH ADDITIONAL VIDEO POKER MACHINE, THE ANNUAL FEE SHALL BE \$500 PER MACHINE. EVERY VIDEO POKER MACHINE IN USE IN THIS COMMONWEALTH MUST HAVE A CURRENT \$500 LICENSE DISPLAYED.

1 EVERY VIDEO POKER MACHINE LICENSED UNDER THIS ACT MUST BE
2 MANUFACTURED BY AN INDIVIDUAL, PARTNERSHIP OR CORPORATION
3 LICENSED UNDER PARAGRAPH (1). THIS TYPE OF LICENSE WILL ALLOW
4 A MACHINE OWNER TO SELL USED VIDEO POKER MACHINES THAT THE
5 OWNERS PURCHASED NEW AND OPERATED FOR AT LEAST TWO YEARS.

6 (4) A LICENSED ESTABLISHMENT MUST OBTAIN A LICENSE UNDER
7 THIS ACT IN ORDER TO HAVE VIDEO POKER MACHINES ON ITS
8 PREMISES. THE ANNUAL FEE FOR THE LICENSE SHALL BE \$300 FOR
9 EACH MACHINE, PER YEAR.

10 (B) LICENSED ESTABLISHMENT REQUIREMENTS.--FOR ANY LICENSED
11 ESTABLISHMENT WHICH IS APPROVED BY THE COMMONWEALTH AND WHICH
12 USES VIDEO POKER MACHINES, THE MAXIMUM NUMBER OF VIDEO POKER
13 MACHINES ALLOWED PER LOCATION SHALL BE THREE. NO VIDEO POKER
14 MACHINES MAY BE PLACED IN ANY LICENSED ESTABLISHMENT UNLESS THE
15 OWNER OF A LICENSED ESTABLISHMENT HAS ENTERED INTO A CONTRACT
16 WITH A MACHINE OWNER FOR THE PLACEMENT OF THE MACHINE OR
17 MACHINES FOR A MINIMUM OF TWO YEARS.

18 (C) LIMITATIONS.--NO PERSON MAY HOLD MORE THAN ONE CLASS OF
19 LICENSE ISSUED UNDER THIS ACT, DIRECTLY OR INDIRECTLY, OR HAVE
20 ANY INTEREST THEREIN.

21 (D) INCENTIVES.--NO MACHINE OWNER MAY GIVE AND NO LICENSED
22 ESTABLISHMENT MAY RECEIVE AN INCENTIVE.

23 SECTION ~~13~~ 14. DISTRIBUTION OF PROCEEDS. <—

24 (A) COLLECTION.--GROSS PROCEEDS SHALL BE COLLECTED BY THE
25 MACHINE OWNER FOR EACH LICENSED VIDEO POKER MACHINE.

26 (B) DISTRIBUTION OF NET PROFITS.--THE NET PROFITS DERIVED
27 FROM A VIDEO POKER MACHINE SHALL BE DISTRIBUTED BY THE MACHINE
28 OWNER AS FOLLOWS:

29 (1) ~~34%~~ 35% TO THE MACHINE OWNER. <—

30 (2) ~~34%~~ 35% TO THE LICENSED ESTABLISHMENT WHERE THE <—

1 MACHINE IS LOCATED.

2 (3) 14% TO THE POLITICAL SUBDIVISION WHERE THE VIDEO
3 POKER MACHINE IS LOCATED.

4 ~~(4) 11% TO THE SCHOOL DISTRICT WHERE THE VIDEO POKER~~ <—
5 ~~MACHINE IS LOCATED.~~

6 ~~(5) 5%~~ (4) 14% TO THE STATE LOTTERY FUND.

7 ~~(6)~~ (5) 2% TO THE ATTORNEY GENERAL TO BE USED FOR DRUG <—
8 EDUCATION AND/OR ENFORCEMENT.

9 (C) REPORTS.--THE COMMISSION IS AUTHORIZED TO ESTABLISH A
10 PROCEDURE FOR AUDITING POKER MACHINES. THE PROCEDURE WILL
11 INCLUDE REPORTS PREPARED BY THE MACHINE OWNERS AND ELECTRONIC
12 AUDITING AT A CENTRAL LOCATION DESIGNATED BY THE COMMISSION. THE
13 TIMING AND CONTENTS OF THE REPORTS SHALL BE ESTABLISHED BY THE
14 COMMISSION. THE COMMISSION SHALL HAVE THE AUTHORITY TO CONTRACT
15 WITH AN INDEPENDENT AUDITING FIRM TO ESTABLISH AND OPERATE ALL
16 OR SOME OF THE AUDITING REQUIREMENTS AS ESTABLISHED BY THE
17 COMMISSION.

18 SECTION ~~14~~ 15. GOVERNMENT REVENUES. <—

19 THE COMMISSION WILL ESTABLISH PROCEDURES ON THE METHOD OF
20 PAYMENT OF REVENUES DUE THE MUNICIPALITIES, ~~SCHOOL DISTRICTS~~ <—
21 STATE LOTTERY FUND AND ATTORNEY GENERAL'S OFFICE. ANY MACHINE <—
22 OWNER WHO DOES NOT COMPLY WITH THE PAYMENT SCHEDULE SHALL BE
23 SUBJECT TO A 5% LATE PAYMENT PENALTY. ANY MACHINE OWNER WHO IS
24 CONSISTENTLY LATE IN MAKING PAYMENTS MAY BE SUBJECT TO LICENSE
25 REVOCATION.

26 SECTION ~~15~~ 16. CREATION OF ACCOUNT. <—

27 ALL REVENUES FROM LICENSES AND FINES SHALL BE PLACED IN A
28 RESTRICTED REVENUE ACCOUNT TO FUND THE TOTAL OPERATION OF THE
29 COMMISSION, INCLUDING THE ELECTRONIC AUDITING FIRM, BUT NOT
30 LIMITED TO, SALARIES, ADMINISTRATIVE EXPENSES AND AUDITING

1 COSTS. THE COMMISSION SHALL ALLOCATE A MINIMUM OF \$1,000,000
2 ANNUALLY TO BE USED FOR THE TREATMENT OF COMPULSIVE BEHAVIORS IN
3 ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSION. THE FIRST
4 SUCH ALLOCATION SHALL BE MADE IN THE FIRST FISCAL YEAR
5 COMMENCING ONE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS ACT.

6 SECTION ~~16~~ 17. PREEMPTION OF LOCAL TAXES AND LICENSE FEES. <—

7 VIDEO POKER MACHINES AND COIN-OPERATED AMUSEMENT MACHINES
8 LOCATED IN A PARTICIPATING POLITICAL SUBDIVISION SHALL BE EXEMPT
9 FROM TAXES LEVIED UNDER THE ACT OF AUGUST 5, 1932 (SP.SESS.,
10 P.L.45, NO.45), REFERRED TO AS THE STERLING ACT, THE ACT OF
11 DECEMBER 31, 1965 (P.L.1257, NO.511), KNOWN AS THE LOCAL TAX
12 ENABLING ACT, OR THE ACT OF APRIL 13, 1972 (P.L.184, NO.62),
13 KNOWN AS THE HOME RULE CHARTER AND OPTIONAL PLANS LAW, OR UNDER
14 ANY OTHER STATUTE THAT CONFERS TAXING AUTHORITY TO ANY POLITICAL
15 SUBDIVISION.

16 SECTION ~~17~~ 18. PROHIBITION AND PENALTIES. <—

17 (A) MANUFACTURE.--A PERSON MAY NOT MANUFACTURE, ASSEMBLE,
18 PRODUCE OR SELL A VIDEO POKER MACHINE IN THIS COMMONWEALTH
19 UNLESS THE PERSON HAS A VALID MANUFACTURER'S LICENSE ISSUED
20 UNDER SECTION 12(A)(1). A MANUFACTURER MAY ONLY SELL VIDEO POKER
21 MACHINES IN USE IN THIS COMMONWEALTH TO PERSONS HAVING A VALID
22 DISTRIBUTOR'S LICENSE.

23 (B) DISTRIBUTION.--A PERSON MAY NOT SELL, SERVICE,
24 DISTRIBUTE, LEASE OR MARKET A VIDEO POKER MACHINE IN THIS
25 COMMONWEALTH UNLESS THE PERSON HAS A VALID DISTRIBUTOR'S LICENSE
26 ISSUED UNDER SECTION 12(A)(2). A DISTRIBUTOR MAY ONLY SELL VIDEO
27 POKER MACHINES FOR USE IN THIS COMMONWEALTH TO PERSONS HAVING A
28 VALID DISTRIBUTOR'S OR MACHINE OWNER'S LICENSE. THIS SECTION
29 DOES NOT PRECLUDE A MACHINE OWNER FROM SELLING USED VIDEO POKER
30 MACHINES THAT THE OWNER PURCHASED NEW AND OPERATED FOR AT LEAST

1 TWO YEARS.

2 (C) PLACE ON LOCATIONS.--A PERSON MAY NOT OWN, SERVICE,
3 MAINTAIN, LEASE OR PLACE A VIDEO POKER MACHINE UNLESS HE HAS A
4 VALID MACHINE OWNER'S LICENSE ISSUED UNDER SECTION 12(A)(3). A
5 MACHINE OWNER CAN ONLY PLACE VIDEO POKER MACHINES FOR USE IN
6 THIS COMMONWEALTH IN LOCATIONS HAVING A VALID ESTABLISHMENT
7 LICENSE.

8 (D) USE.--A PERSON MAY NOT OFFER, ENABLE OR ALLOW THE
9 PLAYING OF VIDEO POKER AT AN ESTABLISHMENT UNLESS THAT
10 ESTABLISHMENT HAS A VALID ESTABLISHMENT LICENSE ISSUED UNDER
11 SECTION 12(A)(4). A PERSON WITH A VALID ESTABLISHMENT LICENSE
12 MAY NOT HAVE MORE THAN THREE VIDEO POKER MACHINES IN A LICENSED
13 ESTABLISHMENT AT THE SAME TIME.

14 (E) TAMPERING.--A PERSON MAY NOT MANIPULATE THE OUTCOME OR
15 PAYOFF OF A VIDEO POKER MACHINE THROUGH INTERFERENCE WITH THE
16 PROPER FUNCTIONING OF THE MECHANISM.

17 (F) PENALTIES.--

18 (1) A PERSON WHO VIOLATES THIS SECTION COMMITS A
19 MISDEMEANOR OF THE THIRD DEGREE AND SHALL, UPON CONVICTION,
20 BE SENTENCED TO PAY A FINE OF \$1,000, OR TO IMPRISONMENT FOR
21 NOT MORE THAN ONE YEAR, OR BOTH.

22 (2) A PERSON WHO VIOLATES THIS SECTION A SECOND TIME
23 COMMITS A MISDEMEANOR OF THE SECOND DEGREE AND SHALL, UPON
24 CONVICTION, BE SENTENCED TO PAY A FINE OF \$2,000, OR TO
25 IMPRISONMENT FOR NOT MORE THAN TWO YEARS, OR BOTH.

26 (3) A PERSON WHO VIOLATES THIS SECTION A THIRD AND
27 SUBSEQUENT TIME COMMITS A MISDEMEANOR OF THE FIRST DEGREE AND
28 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF \$5,000,
29 OR TO IMPRISONMENT FOR NOT MORE THAN FIVE YEARS, OR BOTH.

30 SECTION ~~18~~ 19. EXEMPTION FROM STATE GAMBLING LAWS.

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1 VIDEO POKER MACHINES AND THEIR USE ARE EXEMPT FROM 18 PA.C.S.
2 § 5513 (RELATING TO GAMBLING DEVICES, GAMBLING, ETC.).

3 SECTION ~~19~~ 20. EXEMPTION FROM FEDERAL REGULATION. <—

4 THE GENERAL ASSEMBLY DECLARES THAT THE COMMONWEALTH IS EXEMPT
5 FROM SECTION 2 OF THE GAMBLING DEVICES TRANSPORTATION ACT (64
6 STAT. 1134, 15 U.S.C. § 1172). SHIPMENTS OF VIDEO DEVICES INTO
7 THIS COMMONWEALTH IN COMPLIANCE WITH SECTIONS 3 AND 4 OF THE
8 GAMBLING DEVICES TRANSPORTATION ACT (64 STAT. 1134, 15 U.S.C. §§
9 1173 AND 1174) SHALL BE DEEMED LEGAL SHIPMENTS INTO THIS
10 COMMONWEALTH.

11 SECTION ~~20~~ 21. APPLICABILITY. <—

12 THE PROVISIONS OF THIS ACT SHALL NOT APPLY TO ACTIVITIES
13 RELATING TO SPECIAL OCCASION PERMITS.

14 SECTION ~~21~~ 22. EFFECTIVE DATE. <—

15 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.