

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2176 Session of
1991

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NOVEMBER 12, 1991

REFERRED TO COMMITTEE ON FINANCE, NOVEMBER 12, 1991

AN ACT

1 Authorizing limited gambling on excursion boats; imposing a tax
2 on adjusted gross receipts from such gambling; requiring
3 licenses; imposing fees; and providing penalties for
4 violations.

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

24 Section 1. Short title.

25 This act shall be known and may be cited as the Excursion
26 Boat Gambling Act for Waterfront Economic Development.

27 Section 2. Definitions.

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

1 "Adjusted gross receipts." The gross receipts less winnings
2 paid to wagerers.

3 "Applicant." A person, including an individual, partnership,
4 corporation or association applying for an occupational license
5 or applying for a license to operate an excursion gambling boat.

6 "Cheat." To alter the selection of criteria which determine
7 the result of a gambling game or the amount or frequency of
8 payment in a gambling game.

9 "Commission." The Excursion Boat Gambling Commission created
10 under this act.

11 "Distributor." A person who sells, markets or otherwise
12 distributes gambling games, devices or implements of gambling
13 which are usable in the lawful conduct of gambling games
14 pursuant to this act to a licensee authorized to conduct
15 gambling games pursuant to this act.

16 "Dock." The location where an excursion gambling boat is
17 continuously docked or where it moors for the purpose of
18 embarking passengers for and disembarking passengers from a
19 gambling excursion.

20 "Excursion gambling boat." A self-propelled excursion boat,
21 having a capacity of at least 200 persons, on which lawful
22 gambling is authorized and licensed as provided in this act.

23 "Excursion season." The months of January through December.

24 "Gambling device." A slot machine or video game of chance.

25 "Gambling game." Includes, but is not limited to, twenty-
26 one, poker, keno layout, dice, slot machine, video game of
27 chance or roulette wheel and any other game as may be authorized
28 by this act.

29 "Gross receipts." The total sums wagered under this act.

30 "Holder of occupational license." A person licensed by the

1 Excursion Boat Gambling Commission to perform an occupation
2 which the commission has identified as requiring a license to
3 engage in excursion boat gambling.

4 "Implements of gambling." Any product, device or component
5 thereof the use of which directly influences the outcome of a
6 gambling game.

7 "Law enforcement agency." Any State or local police
8 department or law enforcement agency having the power to
9 exercise jurisdiction over excursion boat gambling.

10 "Licensee." A person licensed under this act.

11 "Manufacturer." A person who designs, assembles, fabricates,
12 produces, constructs or otherwise prepares a product or a
13 component part of a product of any implement of gambling usable
14 in the lawful conduct of gambling games pursuant to this act.

15 "Municipality." A city, borough, incorporated town or
16 township, regardless of form of government. The term shall not
17 include counties.

18 "Operator." A person who is licensed to operate an excursion
19 gambling boat that he owns.

20 Section 3. Application of act.

21 This act applies only to excursion boat gambling. It does not
22 apply to horse racing, the State lottery, bingo or any other
23 type of gambling.

24 Section 4. Powers and authority.

25 The commission shall have full jurisdiction over and shall
26 supervise all gambling operations governed by this act, and
27 shall have the following powers:

28 (1) To investigate and determine the eligibility of
29 applicants for a license, and to select among competing
30 applicants, the applicant or applicants which best serve the

1 interests of the citizens of this Commonwealth.

2 (2) To license operators, to identify occupations within
3 the excursion gambling boat operations which require
4 licensing, to adopt standards for licensing the occupations,
5 and to establish fees for the occupational licenses. The fees
6 shall be paid to the commission and, net of the expenses of
7 the commission and reimbursements to the Attorney General as
8 provided below, the fees shall be deposited in the Lottery
9 Fund for the benefit of senior citizens. All net revenue
10 received by the commission from license fees and admission
11 fees shall likewise be deposited in the special account in
12 the Lottery Fund. The commission shall allocate a minimum of
13 \$1,000,000 annually to be used for the treatment of
14 compulsive behaviors in accordance with regulations adopted
15 by the commission. The first such allocation shall be made in
16 the first fiscal year commencing one year following the
17 effective date of this act. The commission shall also
18 allocate to the Office of Attorney General funds sufficient
19 to reimburse the Office of Attorney General for its expenses
20 incurred for law enforcement activities related to excursion
21 gambling boats and the excursion gambling boat industry. The
22 commission shall also entertain petitions from any other law
23 enforcement agency which requests reimbursement from the
24 commission for costs and expenses directly related to law
25 enforcement activities resulting from excursion boat
26 gambling.

27 (3) To adopt standards under which all excursion
28 gambling boat operations shall be held and standards for the
29 facilities within which the gambling operations shall be
30 held. The commission may authorize the operation of gambling

1 games on an excursion gambling boat which is also licensed to
2 sell or serve alcoholic beverages, wine or beer.

3 (4) To regulate the wagering structure for gambling
4 excursions, including providing a maximum wager of \$5 per
5 hand or play and a maximum loss of \$200 per individual player
6 per gambling excursion.

7 (5) To enter the office, excursion gambling boat,
8 facilities or other places of business of a licensee to
9 determine compliance with this act.

10 (6) To investigate alleged violations of this act or
11 commission rules, regulations, orders or decisions, and to
12 take appropriate disciplinary action against a licensee or a
13 holder of an occupational license for a violation, or refer
14 the same to the appropriate law enforcement agency.

15 (7) To require a licensee, an employee of a licensee or
16 holder of an occupational license to remove a person
17 violating a provision of this act or the commission rules,
18 orders, final orders or other person deemed to be undesirable
19 from the excursion gambling boat facilities.

20 (8) To require the removal of a licensee, an employee of
21 a licensee or a holder of an occupational license for a
22 violation of this act or a commission rule, regulation, order
23 or decision or for engaging in a fraudulent practice.

24 (9) To impose fines upon any corporation, association or
25 person participating in any way at any place where any
26 excursion boat gambling is conducted, other than as a patron
27 and whether licensed by the commission or not, for a
28 violation of any provision of this act or the rules and
29 regulations promulgated by the commission, not exceeding
30 \$5,000 for each violation, which fines shall be paid into the

1 State Treasury through the Department of Revenue and credited
2 to the Lottery Fund.

3 (10) To require an operator to file an annual balance
4 sheet and profit and loss statement pertaining to the
5 operator's gambling activities in this Commonwealth, together
6 with a list of the stockholders or other persons having any
7 equity or beneficial interest in the gambling activities of
8 each operator.

9 (11) To issue subpoenas for the attendance of witnesses
10 and subpoenas duces tecum for the production of books,
11 records and other pertinent documents and to administer oaths
12 and affirmations to witnesses.

13 (12) To keep accurate and complete records of its
14 proceedings and to certify the records as may be appropriate.

15 (13) To assess a fine and revoke or suspend licenses.

16 (14) To take any other action as may be reasonable or
17 appropriate to enforce this act and commission rules,
18 regulations, orders and decisions.

19 (15) To require all licensees of gambling game
20 operations to utilize a cashless wagering system whereby all
21 players' money is converted to tokens, electronic cards or
22 chips which can be used only for wagering on the excursion
23 gambling boat.

24 (16) To ensure that the gambling games authorized under
25 this act are conducted fairly. No gambling device shall be
26 set to pay out less than 80% of all wagers.

27 (17) To promulgate such regulations as may be necessary
28 to implement this act.

29 (18) To appoint an executive director to hold office at
30 its pleasure. The executive director shall have powers and

1 duties as the commission shall prescribe and shall receive
2 compensation as the commission shall determine. The executive
3 director shall have the authority to employ personnel
4 necessary to carry out the duties of the office. No executive
5 director shall hold office unless he has a minimum of ten
6 years administrative experience. The Pennsylvania State
7 Police must also conduct a thorough background check on the
8 individuals under consideration by the commission for the
9 position of executive director. The executive director will
10 be required to meet the same qualification criteria and give
11 the same oath of office, and will be subject to the same
12 disqualification criteria, as required of appointees to the
13 commission under sections 20, 21 and 22.

14 (19) To require any applicant for the position of
15 executive director or any other position for which a license
16 is required under this act, to pay the cost of a criminal
17 history record check, as required in 18 Pa.C.S. § 9151
18 (relating to right to access and review) and a record check
19 conducted by the Federal Bureau of Investigations.

20 (20) To use funds derived from license and admission
21 fees to acquire such furnishing, equipment, supplies,
22 stationery, books, motor vehicles and any items or equipment
23 it may deem necessary or desirable in carrying out its duties
24 as provided for in this act.

25 (21) To incur such other expenses, within the limits of
26 available funds, as it may deem necessary.

27 Section 5. Statement of intent.

28 (a) General rule.--A person who intends to apply for a
29 manufacturer's, distributor's or excursion gambling boat
30 operator's license, must first file a statement of intent with

1 the commission. The statement shall include:

2 (1) the name and address of the person, partnership or
3 corporation which intends to file an application; and

4 (2) the type of license that will be applied for.

5 (b) Fees.--

6 (1) The filing fees which must accompany the statement
7 of intent shall be as follows:

8 (i) For manufacturers and distributors \$2,500.

9 (ii) For operators \$25,000.

10 (2) The filing fee shall be applied to the applicant's
11 license fee if a license is subsequently approved by the
12 commission.

13 (3) The full fee shall be refunded if the subsequent
14 application is denied by the commission.

15 (4) An applicant may also withdraw the statement of
16 intent at any time and shall be entitled to a full refund of
17 the fee.

18 (c) When not required.--The statement of intent is not
19 required for renewal of a license nor is it required of an
20 applicant for an occupational license.

21 (d) Waiver.--The requirement of a statement of intent is
22 waived 12 months after the effective date of this act if the
23 commission certifies it has sufficient finances on hand to meet
24 the budget requirements of this act. The certification shall be
25 published in the Pennsylvania Bulletin.

26 Section 6. Applications for excursion gambling boat operators'
27 licenses.

28 (a) General rule.--A person may apply to the commission for
29 a license to operate excursion gambling boats within a county
30 described in section 9. The application shall be filed with the

1 administrator of the commission at least 90 days before the
2 first day of the next excursion season, shall identify each
3 excursion gambling boat upon which gambling games will be
4 authorized and shall include United States Coast Guard
5 registration number of each such boat, shall specify the exact
6 location where each excursion gambling boat will be docked, and
7 shall be in a form and contain such information as the
8 commission prescribes. Notwithstanding the foregoing, an
9 operator's license issued under the terms of this act will
10 restrict the licensee to operate not more than two excursion
11 gambling boats in any county eligible under section 9.

12 (b) Initial license fee.--The initial license fee shall be
13 \$50,000.

14 (c) Annual license fee.--The annual license fee to operate
15 an excursion gambling boat shall be based on the passenger-
16 carrying capacity, including crew, for which the excursion
17 gambling boat is registered. The initial annual fee shall be \$25
18 per person-capacity and shall be subject to change pursuant to
19 section 13(c).

20 Section 7. Occupational, distributor and manufacturer licenses.

21 (a) License required.--A manufacturer or distributor of
22 gambling games or implements of gambling and any person who will
23 be employed on a excursion gambling boat in an occupation
24 designated by the commission shall apply for a license upon a
25 form prescribed by the commission annually before January 1, and
26 shall submit the appropriate license fee. A prospective licensee
27 shall provide such information as the commission requires. The
28 license fee for a distributor is \$10,000, and the license fee
29 for a manufacturer is \$10,000. The license fee for an
30 occupational license shall be established by the commission. The

1 license fees shall be credited to the special account provided
2 for in section 4(2).

3 (b) Limitations on operators.--

4 (1) An operator shall purchase all gambling games or
5 implements of gambling from a distributor or manufacturer
6 licensed pursuant to this act. An operator shall not sell,
7 lease or give gambling games or implements of gambling to
8 another licensee.

9 (2) An operator shall not be a manufacturer or
10 distributor of gambling games or implements of gambling.

11 (3) A manufacturer shall not be a distributor or an
12 operator.

13 (4) A distributor shall not be a manufacturer or an
14 operator.

15 (c) Certification from crime commission.--Before a
16 manufacturer's or distributor's license is issued pursuant to
17 this section, the commission shall receive a certification from
18 the Pennsylvania Crime Commission that the applicant is not
19 connected to organized crime or involved in organized crime
20 activities.

21 (d) Suspension or revocation of license.--The commission may
22 suspend or revoke the license of a distributor or manufacturer
23 for a violation of this act or a rule adopted pursuant to this
24 act committed by the distributor or manufacturer or an officer,
25 director, employee or agent of the manufacturer or distributor.

26 (e) Procedures.--A manufacturer or distributor of gambling
27 games who has been granted a license under this section shall
28 have a representative within this Commonwealth to take delivery
29 of gambling games or implements of gambling prior to delivery to
30 an operator. The manufacturer or distributor shall provide the

1 commission with a copy of the invoice showing the items shipped
2 and a copy of the bill of lading. When received, the gambling
3 games or implements of gambling shall be stored in a public
4 warehouse in this Commonwealth until delivered to the operator
5 or, after delivery is complete, the shipment may be transferred
6 to an operator.

7 Section 8. Requirements of license applicant.

8 (a) Information.--An applicant to become a licensee, other
9 than a holder of an occupational license, must produce
10 information, documentation and assurances concerning the
11 following:

12 (1) The full name, residence, date of birth,
13 fingerprints and other personal identifying information as
14 the commission deems necessary.

15 (2) A copy of the applicant's criminal history record
16 information pursuant to 18 Pa.C.S. Ch. 91 (relating to
17 criminal history record information). The applicant must also
18 include copies of criminal history record information from
19 any other jurisdiction where the applicant resided or had a
20 principal place of business during a ten-year period
21 immediately preceding the filing of the application. Where no
22 such information exists, the applicant must submit a letter
23 so indicating from the respective law enforcement agency.

24 (3) Information, documentation and assurances concerning
25 financial background and resources as may be required to
26 establish by clear and convincing evidence the financial
27 stability, integrity and responsibility of the applicant.
28 Information under this paragraph includes, but is not limited
29 to, bank references, business and personal income and
30 disbursement schedules, tax returns and other reports filed

1 with governmental agencies and business and personal
2 accounting and check records and ledgers. In addition, the
3 applicant must authorize in writing the examination of all
4 bank accounts and records as deemed necessary by the
5 commission. If a nonpublicly traded corporation has any
6 equitable interest in the applicant, this paragraph applies
7 to all stockholders of the corporation.

8 (4) Information, documentation and assurances as
9 necessary to establish by clear and convincing evidence the
10 integrity of all financial backers; investors; mortgages;
11 bondholders; and holders of indentures, notes or other
12 evidence of indebtedness, either in effect or proposed, which
13 bears any relation to the excursion gambling boat proposal
14 submitted by the applicant. The integrity of financial
15 sources shall be judged upon the same standards as the
16 applicant. The applicant must produce whatever information,
17 documentation or assurances required to establish by clear
18 and convincing evidence the adequacy of financial resources,
19 both as to the completion of the excursion gambling boat and
20 the operation of the excursion gambling boat.

21 (5) Information, documentation and assurances required
22 to establish by clear and convincing evidence the applicant's
23 good character, honesty and integrity. Information under this
24 paragraph includes, without limitation, information
25 pertaining to family, habits, character, reputation, criminal
26 and arrest record, business activities, financial affairs,
27 business associates, professional associates and personal
28 associates, covering at least the ten-year period immediately
29 preceding the filing of the application. The applicant must
30 notify the commission of any civil judgments obtained against

1 the applicant pertaining to Federal, State or foreign
2 antitrust or security regulation laws. If the applicant has
3 conducted gaming operations in a jurisdiction which permits
4 such activity, the applicant must produce letters of
5 reference from the gaming or casino enforcement or control
6 agency which specify the experiences of the agency with the
7 applicant, the applicant's associates and the applicant's
8 gaming operation. If the letters are not received within 60
9 days of request, the applicant may submit a statement under
10 oath that, during the period such activities were conducted,
11 the applicant was in good standing with the appropriate
12 gaming or casino enforcement or control agency.

13 (6) Information, documentation and assurances as
14 required to establish by clear and convincing evidence that
15 the applicant has sufficient business ability and excursion
16 gambling boat experience as to support the likelihood of
17 creation and maintenance of a successful, efficient excursion
18 gambling boat operation. The applicant must produce the names
19 of all proposed excursion gambling boat employees as they
20 become known, a description of their respective or proposed
21 responsibilities and a full description of security systems
22 and management controls proposed for the excursion gambling
23 boat and related facilities. This paragraph shall not apply
24 to applicants for a distributor's license or a manufacturer's
25 license.

26 (b) Applicant disqualification criteria.--The commission
27 shall deny a license to any applicant who is disqualified on the
28 basis of any of the following criteria:

29 (1) Failure of the applicant to prove by clear and
30 convincing evidence that the applicant is qualified in

1 accordance with the provisions of this act.

2 (2) Failure of the applicant to provide information,
3 documentation and assurances required by this act or
4 requested by the commission; failure of the applicant to
5 reveal any fact which is material to qualification; or
6 supplying information which is untrue or misleading as to a
7 material fact pertaining to the qualification criteria.

8 (3) The applicant or any person required to be qualified
9 under this act as a condition of licensure has been convicted
10 of, or pleaded guilty or no contest to, any of the following
11 offenses or their equivalent in another jurisdiction:

12 Section 1134(a)(14), (30), (36) or (37) of the act of
13 April 14, 1972 (P.L.233, No.64), known as The Controlled
14 Substance, Drug, Device and Cosmetic Act.

15 18 Pa.C.S. § 911 (relating to corrupt organizations).

16 18 Pa.C.S. § 3301 (relating to arson and related
17 offenses).

18 18 Pa.C.S. § 3302 (relating to causing or risking
19 catastrophe).

20 18 Pa.C.S. § 3502 (relating to burglary).

21 18 Pa.C.S. § 3701 (relating to robbery).

22 18 Pa.C.S. § 3921 (relating to theft by unlawful
23 taking or disposition).

24 18 Pa.C.S. § 3922 (relating to theft by deception).

25 18 Pa.C.S. § 3923 (relating to theft by extortion).

26 18 Pa.C.S. § 3924 (relating to theft of property
27 lost, mislaid, or delivered by mistake).

28 18 Pa.C.S. § 3925 (relating to receiving stolen
29 property).

30 18 Pa.C.S. § 3926 (relating to theft of services).

1 18 Pa.C.S. § 3927 (relating to theft by failure to
2 make required disposition of funds received).

3 18 Pa.C.S. § 3930 (relating to theft of trade
4 secrets).

5 18 Pa.C.S. § 3932 (relating to theft of leased
6 property).

7 18 Pa.C.S. § 3933 (relating to unlawful use of
8 computer).

9 18 Pa.C.S. § 4101 (relating to forgery).

10 18 Pa.C.S. § 4104 (relating to tampering with records
11 or identification).

12 18 Pa.C.S. § 4108 (relating to commercial bribery and
13 breach of duty to act disinterestedly).

14 18 Pa.C.S. § 4112 (relating to receiving deposits in
15 a failing financial institution).

16 18 Pa.C.S. § 4302 (relating to incest).

17 18 Pa.C.S. § 4701 (relating to bribery in official
18 and political matters).

19 18 Pa.C.S. § 4702 (relating to threats and other
20 improper influence in official and political matters).

21 18 Pa.C.S. § 4902 (relating to perjury).

22 18 Pa.C.S. § 4911 (relating to tampering with public
23 records or information).

24 18 Pa.C.S. § 5111 (relating to dealing in proceeds of
25 unlawful activities).

26 18 Pa.C.S. § 5301 (relating to official oppression).

27 18 Pa.C.S. § 5302 (relating to speculating or
28 wagering on official action or information).

29 18 Pa.C.S. § 5512 (relating to lotteries, etc.).

30 18 Pa.C.S. § 5513 (relating to gambling devices,

1 gambling, etc.).

2 18 Pa.C.S. § 6312 (relating to sexual abuse of
3 children).

4 18 Pa.C.S. § 6314 (relating to sentencing and
5 penalties for trafficking drugs to minors).

6 (4) The applicant or any person required to be qualified
7 under this act as a condition of licensure has been convicted
8 of, or pleaded guilty or no contest to, any other offense
9 under present Federal or State law which indicates that
10 licensure of the applicant would be inimical to the policy of
11 this act and to excursion gambling boat operations. The
12 automatic disqualification provisions of this paragraph shall
13 not apply with regard to:

14 (i) any conviction which did not occur within the
15 ten-year period immediately preceding application for
16 licensure and which the applicant demonstrates by clear
17 and convincing evidence does not justify automatic
18 disqualification pursuant to this subsection; or

19 (ii) any conviction or plea which has been the
20 subject of a judicial order of expungement or sealing.

21 (5) Current prosecuting or pending charges in any
22 jurisdiction of the applicant or of any person who is
23 required to be qualified under this act as a condition of
24 licensure for any of the offenses enumerated in paragraph
25 (3). At the request of the applicant or the person charged,
26 the commission shall defer decision upon such application
27 during the pendency of such charge.

28 (6) The pursuit, by the applicant or any person who is
29 required to be qualified under this act as a condition of
30 licensure, of economic gain in an occupational manner or

1 context which is in violation of the criminal or civil public
2 policies of this Commonwealth, if such pursuit creates a
3 reasonable belief that the participation of the person in
4 excursion gambling boat operations would be inimical to the
5 policies of this act or to legalized gaming in this
6 Commonwealth. For the purposes of this paragraph,
7 "occupational manner" or "context" shall be defined as the
8 systematic planning, administration, management or execution
9 of an activity for financial gain.

10 (7) The commission by the applicant, or any person who
11 is required to be qualified under this act as a condition of
12 licensure, of any act which would constitute an offense under
13 paragraph (3), even if such conduct has not or may not be
14 prosecuted under the criminal laws of this Commonwealth.

15 (8) The applicant is a corporation and 10% of the stock
16 of the corporation is subject to a contract or option to
17 purchase at any time during the period for which the license
18 is to be issued, unless the contract or option was disclosed
19 to the commission and the commission approved the sale or
20 transfer during the period of the license.

21 (9) The applicant has two other licenses issued under
22 this act.

23 (c) Additional fee.--The commission shall charge the
24 prospective licensee a fee to defray the costs associated with
25 the search and classification of fingerprints and background
26 investigations. This fee is in addition to any other license fee
27 charged by the commission. The commission shall reimburse the
28 Pennsylvania State Police for any costs or expenses connected
29 with the search and classification of fingerprints and
30 background investigations.

1 (d) Background investigation.--Before a license is granted,
2 the Pennsylvania State Police shall conduct a thorough
3 background investigation of the applicant for a license to
4 operate an excursion gambling boat. The Pennsylvania State
5 Police shall submit the fingerprints of the applicant to the
6 Federal Bureau of Investigation for a background check. The
7 applicant shall provide information on a form as required by the
8 Pennsylvania State Police.

9 (e) Additional corporate requirements.--If the applicant for
10 an operator's license is a corporation, before an operator's
11 license is granted, the corporation:

12 (1) shall incorporate in Pennsylvania or create a
13 Pennsylvania subsidiary corporation, which such subsidiary
14 corporation may be a wholly or partially owned subsidiary of
15 a corporation which is organized pursuant to the laws of
16 another state of the United States;

17 (2) shall comply with all the requirements of the laws
18 of the Commonwealth of Pennsylvania pertaining to
19 corporations; and

20 (3) shall maintain all operating accounts required by
21 the commission in a bank in the Commonwealth of Pennsylvania.

22 (f) Tourism.--Before a license is granted, an operator of an
23 excursion gambling boat shall work with the Department of
24 Commerce to promote tourism in this Commonwealth. Tourism
25 information from local civic and private persons may be
26 submitted for dissemination.

27 (g) Offense.--A person who knowingly makes a false statement
28 in connection with the application commits a violation of 18
29 Pa.C.S. § 4903 (relating to false swearing).

30 (h) Certificate from crime commission.--Before an operator's

1 license is granted, the commission shall receive a certification
2 from the Pennsylvania Crime Commission that the applicant is not
3 connected to organized crime or involved in organized crime
4 activities.

5 (i) Warrantless search.--The operator or a holder of an
6 occupational license shall consent to the search by an agent of
7 the commission or law enforcement agency without a warrant of
8 the operator or holder's person, personal property and effects,
9 and premises which are located within the area of the excursion
10 gambling boat where gambling is permitted for criminal
11 violations of this chapter or violations of rules, regulations,
12 orders or decisions of the commission.

13 Section 9. Terms and conditions of licenses; limitation of
14 location; revocation.

15 (a) Issuance.--If the commission is satisfied that this act
16 and its rules adopted under this act applicable to licensees
17 have been or will be complied with, the commission shall issue
18 the appropriate license. The commission shall decide the number,
19 location and type of excursion gambling boats for operation on
20 the rivers, lakes and reservoirs of this Commonwealth. The
21 license shall set forth the name of the licensee, the type of
22 license granted, the place where the excursion gambling boats
23 will operate and dock, and the time and number of days during
24 the excursion season when gambling may be conducted by the
25 licensee, provided, however, that an operator's license to
26 conduct excursion boat gambling shall limit the operator to
27 conduct excursion boat gambling only within a county which
28 contains either a city of the first class or a city of the
29 second class, as such is determined under the act of June 25,
30 1895 (P.L.275), entitled "An act dividing the cities of this

1 State into four classes with respect to their population, and
2 designating the mode of ascertaining and changing the
3 classification thereof in accordance therewith." An operator's
4 license issued pursuant to the terms of this act shall be valid
5 for five years from the date of issue, subject to the prompt
6 payment by the operator licensee of the annual license fee
7 described in section 6(c).

8 (b) Conditions.--A license shall be granted to an applicant
9 only upon the express conditions that:

10 (1) The applicant shall not, by lease, contract,
11 understanding or arrangement of any kind, grant, assign or
12 turn over to any person the operation of an excursion
13 gambling boat licensed under this section or the operation of
14 the system of wagering described in section 12. This section
15 does not prohibit a management contract approved by the
16 commission.

17 (2) The applicant shall not in any manner permit a
18 person other than the operator to have a share, percentage or
19 proportion of the money received for admissions to the
20 excursion gambling boat.

21 (3) Notwithstanding section 10, the sale, assignment,
22 transfer, pledge or other disposition of any security issued
23 by a corporation which holds an operator's license shall be
24 conditional and shall be ineffective if disapproved by the
25 commission.

26 (4) Any violation of the provisions of this act
27 committed by any employee of the operator of an excursion
28 gambling boat shall be immediately reported by the operator
29 to the appropriate law enforcement agencies whether or not
30 the violation is a criminal violation or prosecuted as such.

1 (c) Pennsylvania resources, goods and services.--The
2 commission shall require that an applicant utilize Pennsylvania
3 resources, goods and services in the operation of an excursion
4 gambling boat where feasible and obtainable. The commission
5 shall develop standards to assure that a substantial amount of
6 all resources and goods used in the operation of an excursion
7 gambling boat come from Pennsylvania and that a substantial
8 amount of all services and entertainment be provided by
9 Pennsylvanians. The requirement of this subsection shall not
10 limit hiring for essential crew positions related to the
11 gambling operation, vessel operation or passenger safety.

12 (d) Conditions.--The commission shall, as a condition of
13 granting a license, require an applicant to provide written
14 documentation that, on each excursion gambling boat:

15 (1) The applicant makes every effort to ensure that a
16 substantial number of the staff and entertainers employed are
17 residents of this Commonwealth.

18 (2) All security guards employed to supervise the
19 gambling activities upon an excursion gambling boat are
20 employees of the operator.

21 (3) A section is reserved for promotion and sale of
22 arts, crafts and gifts native to and made in this
23 Commonwealth.

24 (e) Wages.--All employees of an excursion gambling boat
25 licensee who work on and within the premises of the excursion
26 gambling boat shall be paid at least 25% above the Federal
27 minimum wage level.

28 (f) Loans prohibited.--An operator shall not loan to any
29 person money or any other thing of value for the purpose of
30 permitting that person to wager on any gambling game. This does

1 not prohibit credit card or debit card transactions or cashing
2 of checks in the ordinary course of business.

3 (g) Docking fee.--If a docking fee is charged by a
4 municipality, the operator shall pay the docking fee one year in
5 advance.

6 (h) Payment of taxes and fees.--An operator shall not be
7 delinquent in the payment of property taxes or other taxes or
8 fees or in the payment of any other contractual obligation or
9 debt due or owed to a political subdivision of the Commonwealth.

10 (i) Requirements of State agencies.--An excursion gambling
11 boat operated on waters of this Commonwealth shall be in
12 compliance with all existing regulatory requirements of State
13 agencies which have jurisdiction over boating activities in this
14 Commonwealth.

15 (j) Revocation of license.--Upon a violation of any of the
16 conditions listed in this section, the commission shall
17 immediately revoke the license.

18 Section 10. Operators; filing of information concerning
19 security transfers; necessity for commission
20 approval.

21 (a) Security transfer filing.--Whenever a transfer of
22 securities comprising an interest of 5% or more in an operator
23 which is a licensed corporation, or comprising an interest of 5%
24 or more in any corporation which leases to a licensed
25 corporation the excursion boat at which it conducts excursion
26 boat gambling or comprising an interest of 5% or more in any
27 corporation which owns 25% or more of the securities of the
28 licensed corporation shall be made, there shall be filed,
29 simultaneously, with the corporation which issued such
30 securities the following:

1 (1) In duplicate, an affidavit executed by the
2 transferee of the interest stating that he is to be the sole
3 beneficial owner thereof, and whether or not he:

4 (i) has been convicted of a crime involving moral
5 turpitude;

6 (ii) has been engaged in bookmaking or other forms
7 of illegal gambling;

8 (iii) has been found guilty of any fraud or
9 misrepresentation in connection with excursion boat
10 gambling;

11 (iv) has been guilty of any violation or attempt to
12 violate any law, rule or regulation of any jurisdiction,
13 for which suspension from excursion boat gambling might
14 be imposed in such jurisdiction; or

15 (v) has violated any rule, regulation or order of
16 the commission.

17 If the transferee of the interest is not, or is not to be,
18 the sole beneficial owner, there shall be annexed to the
19 affidavit of the transferee, and expressly stated in such
20 affidavit, a true and complete copy of all terms of the
21 agreement pursuant to which the interest in the corporation
22 is to be held by the transferee, including a detailed
23 statement of the interest of each person who is to have any
24 interest therein.

25 (2) In duplicate, an affidavit executed by each person
26 for whom the interest is to be held by the transferee,
27 setting forth whether or not the affiant:

28 (i) has been convicted of a crime involving moral
29 turpitude;

30 (ii) has engaged in bookmaking or other forms of

1 illegal gambling;

2 (iii) has been found guilty of any fraud or
3 misrepresentation in connection with excursion boat
4 gambling;

5 (iv) has been guilty of any violation or attempt to
6 violate any law, rule or regulation of any racing
7 jurisdiction, for which suspension from excursion boat
8 gambling might be imposed in such jurisdiction; or

9 (v) has violated any rule, regulation or order of
10 the commission.

11 To each of the affidavits shall be annexed, and expressly
12 stated in such affidavit, a true and complete copy of all the
13 terms of the agreement pursuant to which the interest is to
14 be held by the transferee, including a detailed statement of
15 the interest of each person who is to have any interest
16 therein. The corporation shall file with the commission one
17 of each duplicate affidavits.

18 (b) New affidavit.--If, after the filing of any affidavit
19 required to be filed, there shall be any change in the status of
20 any affiant with respect to any of the matters set forth in
21 subsection (a)(1) of the affidavit filed, the affiant shall file
22 with the corporation with which his affidavit was so filed a new
23 affidavit, executed by him in duplicate, setting forth the
24 change of status and the corporation shall file one of these
25 affidavits with the commission.

26 (c) Other filings.--Whenever any change shall be made in the
27 amount, nature or of the interest of any person having an
28 interest of 5% or more in any corporation, or any new interest
29 of 5% or more shall be created therein, without a transfer as
30 provided, the record owner of the securities, and each person

1 whose interest has been attempted to be changed or created,
2 shall file with the corporation which issued the securities, in
3 duplicate, affidavits as provided by subsection (a)(1) and (2),
4 except that these affidavits need not include the matter
5 referred to in subsection (a) unless then required pursuant to
6 subsection (b) and one copy thereof shall be filed by the
7 corporation with the commission.

8 (d) Commission ordered security disposition.--

9 (1) If the commission determines that it is inconsistent
10 with the public interest, convenience, or necessity, or with
11 the best interest or excursion boat gambling generally, that
12 any person continue to be a security holder of record, or the
13 beneficial owner of any interest in securities standing in
14 the name of another in any licensed corporation or of any
15 corporation which leases to such licensed corporation the
16 excursion boat at which it conducts excursion boat gambling
17 or which owns 25% or more of the securities of the licensee,
18 the commission shall have full power and authority to order
19 each security holder or beneficial owner to dispose of his
20 securities or interest within a period of time to be
21 specified by the appropriate commission, which period the
22 appropriate commission shall have full power to extend.

23 (2) If the commission shall make any order or direction
24 as provided in paragraph (1), the person aggrieved shall be
25 given notice of the time and place of a hearing before the
26 commission, at which time the commission will hear the person
27 in reference thereto.

28 Section 11. Bond of operator.

29 An operator shall post a bond to the Commonwealth before the
30 license is issued in such sum as the commission shall fix, with

1 sureties to be approved by the commission. The bond shall be
2 used to guarantee that the operator faithfully makes the
3 payments, keeps its books and records, makes reports, and
4 conducts its gambling games in conformity with this act and the
5 rules adopted by the commission. The bond shall not be canceled
6 by a surety on less than 30-day notice in writing to the
7 commission. If a bond is canceled and the operator fails to file
8 a new bond with the commission in the required amount on or
9 before the effective date of cancellation, the operator's
10 license shall be revoked. The total and aggregate liability of
11 the surety on the bond is limited to the amount specified in the
12 bond.

13 Section 12. Wagering; minors prohibited.

14 (a) Wagering.--The operator shall permit no form of wagering
15 on gambling games, except as permitted in this section.

16 (b) Maximum wagers and losses.--Operators shall allow only a
17 maximum wager of \$5 per hand or play and a maximum loss of \$200
18 per person during each gambling excursion. However, the
19 commission may adopt rules allowing additional wagers consistent
20 with generally accepted wagering options in the games of twenty-
21 one and dice.

22 (c) Wagerers to be present.--The operator may receive wagers
23 only from persons present on an excursion gambling boat.

24 (d) Tokens, chips, etc.--The operator shall exchange the
25 money of each wagerer for tokens, chips or other forms of credit
26 to be wagered on the gambling games. The operator shall exchange
27 the gambling tokens, chips or other forms of wagering credit for
28 money at the request of the wagerer. Wagering shall not be
29 conducted with money or other negotiable currency.

30 (e) Persons under 21 years.--A person under the age of 21

1 years shall not be permitted to make a wager on an excursion
2 gambling boat. No person under the age of 21 years shall be
3 allowed in the area of the excursion boat where gambling is
4 being conducted except where authorized by the act of April 12,
5 1951 (P.L.90, No.21), known as the Liquor Code.

6 (f) Gambling when boat is docked.--An operator shall not
7 conduct gambling games while the excursion gambling boat is
8 docked during the excursion season unless it is only temporarily
9 docked for embarking or disembarking passengers, crew or
10 supplies, or for mechanical problems or adverse weather or other
11 conditions adversely affecting safe navigation, during the
12 course of an excursion cruise. At the operator's discretion, an
13 excursion gambling boat is permitted to remain docked during the
14 months of December, January and February, provided that the
15 excursion gambling boat has been operational for at least 250
16 days during the excursion season.

17 (g) Additional prohibition.--Gaffed games are strictly
18 prohibited.

19 Section 13. Admission fee; tax; local fees.

20 (a) State admission fee.--

21 (1) An operator shall collect and remit to the
22 commission a State admission fee for each person embarking on
23 an excursion gambling boat with a ticket of admission. The
24 State admission fee shall be set by the commission.

25 (2) If tickets are issued which are good for more than
26 one excursion, the State admission fee shall be paid for each
27 person using the ticket on each excursion for which the
28 ticket is used.

29 (3) If free passes or complimentary admission tickets
30 are issued, the operator shall pay the same State fee upon

1 the passes or complimentary tickets as if they were sold at
2 the regular and usual admission rate, except that the
3 operator may issue State fee-free passes to actual and
4 necessary officials and employees of the operator and other
5 persons actually working on the excursion gambling boat.

6 (4) The issuance of State fee-free passes is subject to
7 the rules of the commission. A list of all persons to whom
8 State fee-free passes are issued shall be filed with the
9 commission.

10 (b) Local admission fee.--In addition to the State admission
11 fee charged under subsection (a), a municipality may adopt, by
12 ordinance, an admission fee not exceeding 50¢ for each person
13 embarking on an excursion gambling boat docked within the
14 municipality.

15 (c) Determination of fees.--In determining the annual
16 license fees and State admission fees to be charged, the
17 commission shall use the amount appropriated to the commission
18 as the basis for determining the amount of revenue to be raised
19 from the license fees and State admission fees. It is the intent
20 of the General Assembly that the commission shall be fully
21 funded from the moneys produced by the annual license and
22 admission fees.

23 (d) Prohibition against other taxes or fees.--No license
24 tax, permit tax, occupation tax, excursion fee, or other tax or
25 fee, shall be levied, assessed or collected from an operator by
26 a political subdivision except as provided in this section, nor
27 shall any excise tax be levied, assessed or collected from the
28 operator relating to gambling excursions or admission charges by
29 a political subdivision except as provided in this section.

30 Section 14. Wagering tax; rate; credit.

1 A wagering tax is imposed on the adjusted gross receipts
2 received from gambling games authorized under this act at the
3 rate of 15% of adjusted gross receipts. The taxes imposed by
4 this section shall be paid by the operator to the Department of
5 Revenue within ten days after the close of the month when the
6 wagers were made and shall be distributed as follows:

7 (1) (i) Twenty-five percent of the wagering tax shall
8 be distributed to each county having either a home port
9 or a port of call, based on the ratio of the number of
10 passengers embarking from that port, to the total number
11 of Statewide embarkations during each calendar month.

12 (ii) Twenty-five percent of the wagering tax shall
13 be distributed to each municipality having either a home
14 port or a port of call, based on the ratio of the number
15 of passengers embarking from that port, to the total
16 number of Statewide embarkations during each calendar
17 month.

18 (iii) The city and county of Philadelphia shall be
19 entitled to a distributive share under each of the
20 formulas described in subparagraphs (i) and (ii).

21 (2) The remaining amount of the wagering tax shall be
22 credited to the Lottery Fund of the Commonwealth as described
23 in section 4(2).

24 Section 15. Books and records; reports; audits; supervision.

25 (a) Books and records.--An operator shall keep its books and
26 records so as to clearly show all of the following:

27 (1) The total number of admissions to gambling
28 excursions conducted by the operator on each day, including
29 the number of admissions upon free passes or complimentary
30 tickets.

1 (2) The county and municipality of origin of each
2 passenger admission whether paid, free or complimentary,
3 excluding officials and employees of the operator.

4 (3) The amount received daily from admission fees.

5 (4) The total amount of money wagered during each
6 excursion day and the adjusted gross receipts for the day.

7 (b) Reports.--The operator shall furnish to the commission
8 reports and information as the commission may require with
9 respect to its activities. The commission may designate a
10 representative to board an excursion gambling boat, who shall
11 have full access to all places within the enclosure of the boat
12 and who shall supervise and check the admissions. The
13 compensation of the representative shall be fixed and paid by
14 the commission but the costs thereof shall be borne by the
15 operator.

16 (c) Records to be public.--The information provided to the
17 commission in this section shall be compiled on a monthly basis
18 and be made public through an annual report to be published by
19 the commission.

20 (d) Audits.--Within 90 days after the end of each month, the
21 operator shall transmit to the commission an audit of the
22 financial transactions and condition of the operator's books and
23 records. Additionally, within 90 days after the end of the
24 operator's fiscal year, the operator shall transmit to the
25 commission an audit of the financial transactions and condition
26 of the operator. All audits shall be conducted by certified
27 public accountants who are certificated by the Department of
28 State.

29 Section 16. Annual report of commission.

30 The commission shall make an annual report to the Governor

1 for the period ending December 31 of each year. Included in the
2 report shall be an account of the commission's actions, its
3 financial position and results of operations under this act, the
4 practical results attained under this act and any
5 recommendations for legislation which the commission deems
6 advisable.

7 Section 17. Prohibited activities; penalty.

8 (a) Prohibited conduct.--Any person who uses a device to
9 assist in any of the following shall be ejected and barred for
10 life from embarking upon an excursion gambling boat:

11 (1) Projecting the outcome of the game.

12 (2) Card counting.

13 (3) Analyzing the probability of the occurrence of an
14 event relating to the gambling game.

15 (4) Analyzing the strategy for playing or betting used
16 in the game, except as permitted by the commission.

17 (b) Misdemeanor offenses.--A person commits a misdemeanor of
18 the second degree for any of the following:

19 (1) Operating a gambling excursion where wagering is
20 permitted other than in the manner specified by section 12.

21 (2) Knowingly permitting a person under 21 years of age
22 to make a wager.

23 (3) Wagering or accepting a wager at any location
24 outside the excursion gambling boat.

25 (4) Cheating at a gambling game.

26 (c) Felony offenses.--A person commits a felony of the third
27 degree and, in addition, shall be barred for life from excursion
28 gambling boats under the jurisdiction of the commission, if he
29 does any of the following:

30 (1) Offers, promises or gives anything of value or

1 benefit to a person who is connected with an excursion
2 gambling boat operator, including, but not limited to, an
3 officer or employee of a licensee or holder of an
4 occupational license, pursuant to an agreement or arrangement
5 or with the intent that the promise or thing of value or
6 benefit will influence the actions of the person to whom the
7 offer, promise or gift was made in order to affect or attempt
8 to affect the outcome of a gambling game, or to influence
9 official action of a member of the commission.

10 (2) Solicits or knowingly accepts or receives a promise
11 of anything of value or benefit while the person is connected
12 with an excursion gambling boat, including, but not limited
13 to, an officer or employee of a licensee or holder of an
14 occupational license, pursuant to an understanding or
15 arrangement or with the intent that the promise or thing of
16 value or benefit will influence the actions of the person to
17 affect or attempt to affect the outcome of a gambling game,
18 or to influence official action of a member of the
19 commission.

20 (3) Manufactures, sells, or distributes any cards,
21 chips, dice, game or device which is intended to be used to
22 violate any provision of this act.

23 (4) Alters or misrepresents the outcome of a gambling
24 game on which wagers have been made after the outcome is made
25 sure but before it is revealed to the players.

26 (5) Places a bet after acquiring knowledge, not
27 available to all players, of the outcome of the gambling game
28 which is the subject of the bet or to aid a person in
29 acquiring the knowledge for the purpose of placing a bet
30 contingent on that outcome.

1 (6) Uses counterfeit chips or tokens in a gambling game.

2 (7) Knowingly uses, other than chips, tokens, coin, or
3 other methods or credit approved by the commission, legal
4 tender of the United States, or to use coin not of the
5 denomination as the coin intended to be used in the gambling
6 games.

7 (8) Has in his possession any device intended to be used
8 to violate a provision of this act.

9 (9) Except for an operator or employee of an operator
10 acting in furtherance of the employee's employment, has in
11 his possession any key or device designed for the purpose of
12 opening, entering, or affecting the operation of a gambling
13 game, drop box, or an electronic or mechanical device
14 connected with the gambling game or for removing coins,
15 tokens, chips or other contents of a gambling game.

16 (10) Acting, or employing a person to act, as a shill or
17 decoy to encourage participation in a gambling game.

18 (d) Inference.--The possession of more than one of the
19 devices described in subsection (c)(3), (8) or (9) permits a
20 rebuttable inference that the possessor intended to use the
21 devices for cheating.

22 (e) Exchanging tokens, chips, etc.--Except for wagers on
23 gambling games or exchanges for money as provided in section
24 12(d), a licensee who exchanges tokens, chips, or other forms of
25 credit to be used on gambling games for anything of value
26 commits a misdemeanor of the third degree.

27 Section 18. Forfeiture of property.

28 (a) General rule.--Anything of value, including all
29 traceable proceeds, including, but not limited to, real and
30 personal property, moneys, negotiable instruments, securities,

1 and conveyances, is subject to forfeiture to the Commonwealth if
2 the item was used:

3 (1) in exchange for a bribe intended to affect the
4 outcome of a gambling game; or

5 (2) in exchange for or to facilitate any other violation
6 of this act.

7 (b) Presumption.--All moneys, coin and currency found in
8 close proximity of wagers or of records of wagers are presumed
9 forfeited. The burden of proof is upon the claimant of the
10 property to rebut this presumption.

11 (c) Knowledge as prerequisite.--Subsections (a) and (b)
12 apply only if the act or omission which would give rise to the
13 forfeiture was committed or omitted with the owner's knowledge
14 and consent.

15 Section 19. Report of implementation.

16 The commission shall report to the General Assembly by April
17 1, 1993, the number of excursion gambling boat licenses which
18 the commission has issued. The report shall also include the
19 administrative rules which the commission proposes or has
20 adopted to implement the provisions of this act. which the
21 commission proposes or has adopted to implement the provisions
22 of this act.

23 Section 20. Commission.

24 The River Boat Gambling Commission is created, consisting of
25 seven members, two of whom shall be appointed by the Governor
26 under the provisions of section 207.1(d) of the act of April 9,
27 1929 (P.L.177, No.175), known as The Administrative Code of
28 1929. The remaining five members shall consist of one to be
29 appointed by the President pro tempore of the Senate, one by the
30 Speaker of the House of Representatives, one by the Minority

1 Leader of the Senate and one by the Minority Leader of the House
2 of Representatives. The remaining member shall be appointed by
3 the Attorney General. The members of the commission shall serve
4 three-year terms, except that the Governor's original
5 appointments shall be one for four years and one for two years.
6 One of the Governor's appointees shall be a certified public
7 accountant with a minimum of ten years experience, who is
8 licensed to practice accountancy in this Commonwealth. The
9 Governor's other appointee shall have comprehensive knowledge of
10 the principles and practice of corporate finance and have a
11 minimum of ten years experience in the field. The Attorney
12 General's appointee shall have a minimum of ten years experience
13 in the field of law enforcement. Commissioners may not serve on
14 the commission for more than two terms, consecutively or
15 otherwise.

16 Section 21. Qualifications for commission members.

17 (a) Qualifications enumerated.--The members of the
18 commission shall meet the following requirements:

19 (1) The member must be a United States citizen and
20 resident of this Commonwealth.

21 (2) The member must not be a member of the General
22 Assembly, or hold any elective or appointed office in
23 Federal, State or local government.

24 (3) The member shall not be a member of any committee of
25 any political party or engage in any political party
26 activity.

27 (4) The member shall not be pecuniarily interested in
28 any business or organization holding an operator's,
29 distributor's or manufacturer's license under this act or
30 doing business with any person or organization licensed under

1 this act.

2 (b) Oath of office.--An appointee, before entering upon the
3 duties of commissioner, shall swear that he is not pecuniarily
4 interested in any business or organization holding an
5 operator's, distributor's or manufacturer's license or doing
6 business with any such person or organization. The oath shall be
7 filed in the Office of the Secretary of State.

8 Section 22. Disqualification.

9 Any member of the commission shall be removed from office by
10 the Governor for incompetency, misconduct in office, willful
11 neglect of duty or other conduct evidencing unfitness for the
12 office.

13 Section 23. Exemption from State gambling laws.

14 The possession of gambling devices and the conduct of gambling
15 activities authorized by this act shall not be considered
16 violations of 18 Pa.C.S. § 5513 (relating to gambling devices,
17 gambling, etc.).

18 Section 24. Exemption from Federal regulation.

19 For the purposes of this act, the General Assembly declares
20 that the Commonwealth is exempt from section 2 of the Gambling
21 Devices Transportation Act (64 Stat. 1134, 15 U.S.C. § 1172 et
22 seq.). Shipments of video devices into this Commonwealth in
23 compliance with sections 3 and 4 of the Gambling Devices
24 Transportation Act (64 Stat. 1134, 15 U.S.C. §§ 1173 and 1174)
25 shall be deemed legal shipments into this Commonwealth.

26 Section 25. Effective date.

27 This act shall take effect immediately.