
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1334 Session of
2003

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HORSEY, SAINATO, DERMODY, RUFFING AND PRESTON, MAY 13, 2003

REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT,
MAY 13, 2003

AN ACT

1 Providing for video gaming; establishing the Gaming Commission
2 and the Video Gaming Account; reorganizing State offices;
3 imposing penalties; and making an appropriation.

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16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Short title.

19 This act shall be known and may be cited as the Video Gaming
20 Act.

21 Section 2. Definitions.

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

25 "Account." The Video Gaming Account established in section
26 22.

27 "Chairman." The chairman of the Gaming Commission.

28 "Coin-operated amusement machine." A machine which requires
29 the insertion of a coin, currency or tokens, to play or activate
30 an amusement game or music machine.

1 "Commission." The Gaming Commission established in section
2 3.

3 "Commissioner." A member of the Gaming Commission.

4 "Distributor." Any individual, partnership, association or
5 corporation, licensed by the Gaming Commission to buy, sell,
6 service or distribute video gaming machines. The term does not
7 include a machine vendor or a manufacturer.

8 "Executive director." The executive director of the Gaming
9 Commission.

10 "Licensed establishment." A restaurant, bar, tavern, hotel
11 or club, which has a valid liquor, or malt or brewed beverage
12 license under the act of April 12, 1951 (P.L.90, No.21), known
13 as the Liquor Code.

14 "Machine vendor." Any individual, partnership, association
15 or corporation, that:

16 (1) is licensed by the Gaming Commission; and

17 (2) owns, services and maintains video gaming machines
18 for placement in licensed establishments.

19 "Manufacturer." Any individual, partnership, association or
20 corporation, that is:

21 (1) licensed by the Gaming Commission; and

22 (2) manufactures or assembles video gaming machines.

23 "Party officer." The following members or officers of any
24 political party:

25 (1) A member of a national committee.

26 (2) A chairman, vice chairman, secretary, treasurer or
27 counsel of a Commonwealth committee.

28 (3) A member of the executive committee of a
29 Commonwealth committee.

30 (4) A county chairman, vice chairman or counsel.

- 1 (5) A secretary or treasurer of a county committee.
- 2 (6) A city chairman, vice chairman or counsel.
- 3 (7) A secretary or treasurer of a city committee.
- 4 (8) A borough chairman, vice chairman or counsel.
- 5 (9) A secretary or treasurer of a borough committee.
- 6 (10) A town chairman, vice chairman or counsel.
- 7 (11) A secretary or treasurer of a town committee.
- 8 (12) A township chairman, vice chairman or counsel.
- 9 (13) A secretary or treasurer of a township committee.

10 "Public official." An elected or appointed official or
11 employee in the executive, legislative or judicial branch of the
12 Commonwealth or a political subdivision. The term does not
13 include any of the following:

14 (1) A member of an advisory board which has no authority
15 to expend public funds other than reimbursement for personal
16 expense or to otherwise exercise the power of the
17 Commonwealth or a political subdivision.

18 (2) An appointed official who receives no compensation
19 other than reimbursement for actual expenses.

20 "State Lottery." The lottery established and operated under
21 the act of August 26, 1971 (P.L.351, No.91), know as the State
22 Lottery Law.

23 "Video gaming machine." A device or machine:

24 (1) which, upon insertion of a coin or currency, will
25 play or simulate the play of a video keno game authorized by
26 the Gaming Commission;

27 (2) which utilizes a video display and microprocessors;
28 and

29 (3) in which, by the skill of the player or by chance,
30 the player may receive free games or credits which may be

1 redeemed for cash.

2 Section 3. Commission.

3 An independent commission to be known as the Gaming
4 Commission is established. The commission shall not be
5 considered either an executive agency or an independent agency
6 for the purpose of the act of October 15, 1980 (P.L.950,
7 No.164), known as the Commonwealth Attorneys Act, but shall
8 possess the same status for such purpose as the Auditor General,
9 the State Treasurer and the Pennsylvania Public Utility
10 Commission.

11 Section 4. Composition and governance of commission.

12 (a) Composition.--

13 (1) The commission shall consist of the following
14 members:

15 (i) Three appointed by the Governor. Appointments
16 under this subparagraph, other than initial appointments,
17 shall comply with section 207.1(d) of the act of April 9,
18 1929 (P.L.177, No. 175), known as The Administrative Code
19 of 1929.

20 (ii) One appointed by the President pro tempore of
21 the Senate.

22 (iii) One appointed by the Minority Leader of the
23 Senate.

24 (iv) One appointed by the Speaker of the House of
25 Representatives.

26 (v) One appointed by the Minority Leader of the
27 House of Representatives.

28 (2) The appointing authorities shall appoint each of the
29 initial members of the commission within 30 days of the
30 effective date of this section.

1 (b) Terms of office.--

2 (1) For members under subsection (a)(1)(i):

3 (i) Except as set forth in subparagraph (ii), terms
4 shall be three years.

5 (ii) Initial appointments shall be for terms of two
6 years.

7 (2) For members under subsection (a)(2), terms shall be
8 for two years.

9 (3) A commissioner may not serve for more than two
10 terms, consecutively or otherwise.

11 (c) Vacancies.--Vacancies in the commission occurring
12 otherwise than by expiration of term shall be filled for the
13 unexpired term in the same manner as original appointments.

14 (d) Qualifications.--Commissioners must meet the following
15 requirements:

16 (1) A commissioner must be a United States citizen and
17 resident of this Commonwealth.

18 (2) A commissioner must not hold elective or appointed
19 office in the executive, legislative or judicial branch of
20 the Commonwealth or a political subdivision.

21 (3) A commissioner must not be a party officer.

22 (4) A commissioner must not, during the period
23 commencing two years prior to the appointment, have held a
24 direct or indirect interest in a person licensed by or
25 subject to regulation by the commission.

26 (5) A commissioner must not have any direct or indirect
27 financial interest in a gaming activity regulated by the
28 commission or in a person holding a license awarded by the
29 commission. A member of the commissioner's family must not
30 have such an interest.

1 (6) A commissioner must not have been convicted of any
2 crime, excluding summary convictions.

3 (e) Officers.--The Governor shall designate one commissioner
4 to serve as chairman of the commission. The commission shall
5 select from its membership a vice chairman and whatever other
6 officers the commission deems necessary.

7 (f) Oath of office.--

8 (1) Before entering upon the duties of commissioner, a
9 commissioner must swear or affirm all of the following:

10 (i) The commissioner is not financially interested
11 in a person holding a license issued by the commission or
12 subject to regulation by the commission.

13 (ii) The commissioner will abide by:

14 (A) this act;

15 (B) regulations promulgated by the commission;

16 and

17 (C) all statutory and regulatory provisions which
18 apply to the commission.

19 (2) The oath or affirmation shall be filed in the office
20 of the Secretary of the Commonwealth.

21 (g) Removal.--A commissioner may be removed from office by
22 the authority that appointed the commissioner, regardless of an
23 unexpired term of appointment, for incompetency, misconduct,
24 willful neglect of duty or other conduct evidencing unfitness
25 for the office. This subsection includes violation of the oath
26 of office.

27 (h) Compensation and expenses.--A commissioner shall receive
28 a salary of \$95,000 per year and shall receive reimbursement for
29 actual and necessary expenses in performing the business of the
30 commission.

1 Section 5. Meetings.

2 (a) Regular and special meetings.--Regular and special
3 meetings of the commission may be held at the discretion of the
4 commission and at times and places it deems convenient. At least
5 one regular meeting shall be held each month.

6 (b) Open meetings.--Except as set forth in section 10, the
7 provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings) shall
8 apply to the commission. Meetings may be closed.

9 (c) Voting requirements.--

10 (1) Four commissioners constitute a quorum.

11 (2) An action of the commission must be taken by:

12 (i) a majority of the commissioners; and

13 (ii) in no event, fewer than four commissioners.

14 Section 6. Ethics.

15 (a) Code of ethics.--The commission shall adopt a code of
16 ethics for commissioners, employees and agents and shall provide
17 that none of these individuals are permitted to engage in gaming
18 activities in an establishment licensed by the commission,
19 except in the course of an individual's duties. An individual
20 who has served as a commissioner may not accept employment from
21 a person licensed by the commission for a period of two years
22 after termination of duties as a commissioner.

23 (b) Statutes applying to commission.--The commission, its
24 members and all of its employees are subject to 65 Pa.C.S. Ch.
25 11 (relating to ethics standards and financial disclosure) and
26 the act of July 19, 1957 (P.L.1017, No.451), known as the State
27 Adverse Interest Act. If there is a conflict between a provision
28 of this act and a provision of either 65 Pa.C.S. Ch. 11 or the
29 State Adverse Interest Act, the provision requiring the more
30 restrictive conduct shall control.

1 Section 7. Powers and duties.

2 (a) General rule.--Except as provided in subsection (b), the
3 commission has jurisdiction over and shall supervise, license
4 and regulate gaming activities in this Commonwealth as provided
5 in this and any other statute.

6 (b) Exceptions.--The powers and duties of the commission
7 under this section do not include any of the following:

8 (1) The State Lottery as authorized under the act of
9 August 26, 1971 (P.L.351, No.91), known as the State Lottery
10 Law.

11 (2) Bingo as authorized under the act of July 10, 1981
12 (P.L.214, No.67), known as the Bingo Law.

13 (3) Small games of chance as authorized by the act of
14 December 19, 1988 (P.L.1262, No. 156), known as the Local
15 Option Small Games of Chance Act.

16 (c) Horse racing.--The act of December 17, 1981 (P.L.435,
17 No.135), known as the Race Horse Industry Reform Act shall
18 continue to apply to pari-mutuel betting on the outcome of horse
19 racing. The State Horse Racing Commission and the State Harness
20 Racing Commission are transferred from the Department of
21 Agriculture and established as administrative commissions within
22 the commission. They shall continue to exercise independent
23 jurisdiction over pari-mutuel betting on the outcome of horse
24 racing in this Commonwealth, but any other form of gaming
25 conducted at facilities subject to their jurisdiction shall be
26 licensed, supervised and regulated by the commission. This
27 transfer does not affect either commission's personnel,
28 appropriations, allocations, documents, records, equipment,
29 materials, powers, duties and obligations.

30 (d) Specific functions.--The commission has the following

1 powers and duties:

2 (1) To investigate and determine the eligibility of
3 applicants for licenses and to select from among competing
4 applicants the applicant or applicants which best serve the
5 interests of the citizens of this Commonwealth.

6 (2) To regulate and adopt standards for all gaming
7 activities in this Commonwealth, including video gaming as
8 authorized in this act.

9 (3) To maintain accurate and complete records of the
10 proceedings of the commission and to certify the records as
11 appropriate. Except as set forth in section 10, the act of
12 June 21, 1957 (P.L.390, No.212), referred to as the Right-to-
13 Know Law, shall apply to the commission.

14 (4) To levy and collect application fees and license
15 fees and to impose fines and penalties for violations of this
16 act or regulations of the commission. Money collected under
17 this paragraph shall be paid to the State Treasury through
18 the commission for the use of the commission as provided in
19 this or any other act.

20 (5) To enforce the civil provisions of this or any other
21 act conferring jurisdiction on the commission.

22 (6) To cooperate with and assist the Pennsylvania State
23 Police, the Attorney General and the various district
24 attorneys of this Commonwealth, who have primary
25 responsibility for the enforcement of the criminal provisions
26 of this and any other act conferring jurisdiction on the
27 commission.

28 (7) To cooperate with the Department of Revenue in
29 administering the collection of taxes for gaming activities
30 subject to the jurisdiction of the commission, including

1 video gaming.

2 (8) To conduct hearings pertaining to civil violations
3 of this and any other act conferring jurisdiction on the
4 commission or regulations promulgated by the commission.

5 (9) To enhance the representation of minority groups in
6 the operation of gaming activities in this Commonwealth and
7 through ownership and operation of business activities
8 utilized by gaming activities in this Commonwealth.

9 (10) To submit to the Governor and the General Assembly
10 an annual report. The report shall include:

11 (i) A statement of receipts and disbursements by the
12 commission.

13 (ii) A statement of special accounts or funds under
14 its control, an account of the commission's actions.

15 (iii) Any other information which the commission
16 deems significant or which the Governor and the General
17 Assembly may request.

18 (11) To take action it deems appropriate to achieve the
19 purposes of this act and any other act over which it has
20 jurisdiction.

21 (12) To promulgate regulations necessary:

22 (i) to achieve the purposes of this act and any
23 other act conferring jurisdiction on the commission; or

24 (ii) for the protection of the:

25 (A) health, safety, morals and general welfare
26 of the citizens of this Commonwealth; and

27 (B) reputation of the Commonwealth's gaming
28 industry.

29 (13) To classify licenses and financial reporting
30 requirements for licensees.

1 (14) To approve, where appropriate, internal control
2 procedures for licensees that are within accepted industry
3 standards.

4 (15) To conduct audits of licensees.

5 (16) To prescribe in conjunction with the Department of
6 Revenue the manner of computing and collecting taxes on
7 gaming activities subject to the jurisdiction of the
8 commission.

9 (17) To require an applicant for a license or a finding
10 of suitability under this or any other act conferring
11 jurisdiction on the commission to pay the costs of a
12 background investigation which are not covered by the
13 application fee.

14 (18) To require an applicant for a license or a finding
15 of suitability to provide fingerprints and to bear the costs
16 associated with the search and classification of the
17 fingerprints.

18 (19) To enter offices, facilities and other places of
19 business of a licensee to obtain evidence of compliance or
20 noncompliance with and to enforce the provisions of this act
21 and any other act conferring jurisdiction on the commission.

22 (20) To investigate alleged violations of this act and
23 any other act conferring jurisdiction on the commission or
24 commission regulations, orders or decisions. In the course of
25 an investigation under this paragraph, the commission has the
26 power and duty to copy, seize and impound books and records
27 of operations, supplies, equipment, cash boxes, counting
28 rooms, games or gaming devices.

29 (21) To take appropriate disciplinary action against a
30 licensee for a violation or refer the matter to the

1 appropriate law enforcement agency.

2 (22) To impose civil fines and penalties for violations
3 of this act and any other act conferring jurisdiction on the
4 commission.

5 (23) To issue subpoenas requiring the attendance of
6 witnesses and the production of documents, to appoint hearing
7 officers and to administer oaths and affirmations to
8 witnesses, as required to administer and enforce this act and
9 any other act conferring jurisdiction on the commission.

10 (24) To prescribe, where necessary, the manner and
11 method of alcohol and drug testing for employees of the
12 commission and for persons employed in connection with gaming
13 activities.

14 (25) To issue orders in accordance with this act and any
15 other act conferring jurisdiction on the commission and
16 regulations promulgated by the commission, granting,
17 revoking, suspending, limiting or making conditional a
18 license or finding of suitability made by the commission.

19 (26) To suspend a license or finding of suitability
20 issued under this act or any other act conferring
21 jurisdiction on the commission upon notice and hearing.

22 (27) To delegate to the executive director and staff of
23 the commission the execution of functions under this act or
24 any other act conferring jurisdiction on the commission for
25 the purpose of administering and enforcing this or any other
26 act conferring jurisdiction on the commission and its
27 regulations. Delegation under this paragraph shall be in
28 accordance with standards established by the commission and
29 the laws of this Commonwealth.

30 (28) To develop and implement forms to be used for the

1 purposes of this act and any other act conferring
2 jurisdiction on the commission.

3 (29) To adopt and use a seal.

4 (30) To sue and be sued.

5 (31) To enter into contracts and other instruments
6 necessary or convenient for the conduct of its business and
7 the exercise of the powers of the commission.

8 (32) To retain counsel and auditors to render
9 professional services as the commission deems appropriate.

10 The commission, through its legal counsel after consultation
11 with the Attorney General, shall defend actions brought
12 against the commission or its members, officers, officials
13 and employees when acting within the scope of their official
14 duties.

15 (33) To acquire, hold and transfer a franchise, license
16 or property right or interest, as necessary or convenient to
17 implement this act and any other act conferring jurisdiction
18 on the commission.

19 (34) To enter into contracts for individual or group
20 insurance and to contribute to retirement plans for the
21 benefit of its employees and to enroll its employees in an
22 existing retirement system of a government agency.

23 (35) To take any other action reasonable or appropriate
24 to implement and enforce this act and any other act
25 conferring jurisdiction on the commission and commission
26 regulations, orders and decisions.

27 (36) To employ an executive director, deputies,
28 secretaries, officers and representatives as necessary. These
29 individuals shall serve at the commission's pleasure.

30 (37) To employ other employees as the commission sees

1 fit and to prescribe their duties and compensation.

2 Section 8. Executive director.

3 (a) Appointment.--The commission shall appoint an executive
4 director, who shall serve at the pleasure of the commission.

5 (b) Qualifications.--The executive director must comply with
6 all of the following:

7 (1) Have at least ten years of responsible
8 administrative experience in public or business
9 administration or possess broad and recognized management
10 skills.

11 (2) Meet the qualification criteria and be subject to
12 the disqualification criteria as required of commissioners
13 under section 4(d) and (g).

14 (3) Make the oath or affirmation under section 4(f).

15 (4) Devote full time and attention to the duties
16 assigned under this act and any other act conferring
17 jurisdiction on the commission and not hold any other
18 employment.

19 (c) Background investigation.--The Pennsylvania State Police
20 shall conduct a thorough background investigation of any person
21 under consideration for the position of executive director prior
22 to appointment and provide the results of the investigation to
23 the commission.

24 (d) Salary.--The annual salary and other compensation of the
25 executive director shall be set by the commission.

26 (e) Functions.--The executive director has the following
27 powers and duties:

28 (1) To maintain commission records and preserve
29 applications, records, books and other documents submitted to
30 the commission or entrusted to its care.

1 (2) To administer the provisions of this act and any
2 other act conferring jurisdiction on the commission and the
3 regulations of the commission relating to the confidentiality
4 and disclosure of documents and information.

5 (3) To hire personnel necessary to implement and
6 accomplish the purposes of this act and any other act
7 conferring jurisdiction on the commission.

8 (4) To develop a commission budget to be approved by the
9 commission.

10 (5) To sign contracts on behalf of the commission which
11 the commission has approved.

12 (6) To make purchases authorized by the commission.

13 (7) To do other things assigned by the commission.

14 Section 9. Criminal history information.

15 When the commission is authorized or required to consider an
16 applicant's criminal history, the commission shall initiate a
17 criminal history record investigation to obtain information in
18 the possession of the Pennsylvania State Police or the Federal
19 Bureau of Investigation or other relevant law enforcement
20 agencies. The Pennsylvania State Police shall be authorized to
21 and shall provide at the commission's request information
22 concerning criminal charges filed against an applicant for or
23 holder of a license issued by the commission. The commission
24 shall use the information obtained as a result of an
25 investigation under this section in determining the eligibility
26 of a person for a license or a finding of suitability. The
27 applicant shall be responsible for the payment of all costs
28 incurred for the investigation which are not covered by the
29 application fee.

30 Section 10. Exemptions to disclosure rules.

1 (a) General rule.--The commission is not required to
2 disclose information the disclosure of which would:

3 (1) not be required by the act of June 21, 1957
4 (P.L.390, No.212), referred to as the Right-to-Know Law; or

5 (2) be prohibited by the statutes, regulations or
6 intergovernmental agreement.

7 (b) Confidential information.--

8 (1) Except as set forth in subsection (a) or paragraph
9 (2), notwithstanding any provision of the Right-to-Know Law,
10 the commission shall not except subject to a court order or
11 with the prior written consent of a licensee or applicant and
12 after notice disclose information or data required under this
13 act or any other act conferring jurisdiction on the
14 commission or regulations of commission to be designated and
15 maintained as confidential.

16 (2) Paragraph (1) does not apply if there is:

17 (i) a court order; or

18 (ii) written consent of the subject licensee or
19 applicant.

20 (c) Categories of confidential information.--The following
21 types of documents or information concerning an applicant or a
22 licensee shall be designated and maintained as confidential
23 pursuant to this section:

24 (1) Financial information. This paragraph includes
25 statements, audits and financing applications, offering
26 memoranda, placement documents and purchase agreements.

27 (2) Marketing information, business plans and
28 proprietary information, including trade secrets.

29 (3) Investigatory materials developed by or provided to
30 the commission during an investigation of an applicant for or

1 holder of a license or a finding of suitability.

2 Section 11. Administrative procedures.

3 The provisions of 2 Pa.C.S. Ch. 7 Subch. A (relating to
4 judicial review of Commonwealth agency action) apply to orders
5 of the commission.

6 Section 12. Video gaming.

7 The commission shall provide for video gaming at licensed
8 establishments. With the exception of tickets indicating credits
9 won, which are redeemable for cash, no machine may directly
10 dispense coins, cash, tokens or anything else of value.

11 Section 13. Licensing.

12 (a) Background investigation; application fee.--The
13 commission shall conduct a background investigation of an
14 applicant for a manufacturer's, distributor's, or machine
15 vendor's license as to personal and business character, honesty
16 and integrity. An applicant must pay a nonrefundable application
17 fee of \$5,000. The investigation may utilize information on the
18 applicant compiled by the Pennsylvania Liquor Control Board. The
19 investigation includes the following:

20 (1) An examination of criminal or civil records.

21 (2) An examination of personal, financial or business
22 records. This paragraph includes tax returns, bank accounts,
23 business accounts, mortgages and contracts, to which the
24 license applicant is a party or has an interest.

25 (3) An examination of personal or business relationships
26 which:

27 (i) include a partial ownership or voting interest
28 in a partnership, association or corporation; and

29 (ii) bear on the fitness of the applicant for
30 licensure.

1 (b) Production of information.--An applicant to become a
2 licensee must produce information, documentation and assurances
3 as required by the commission. This subsection includes the
4 following:

5 (1) Each license applicant must:

6 (i) consent in writing to and provide for the
7 examination of financial and business accounts, bank
8 accounts, tax returns and related records, in the
9 applicant's possession or under the applicant's control
10 which establish by clear and convincing evidence the
11 financial stability, integrity and responsibility of the
12 license applicant; and

13 (ii) authorize all third parties in possession or
14 control of accounts or records under subparagraph (i) to
15 allow for their examination as deemed necessary by the
16 commission in conducting background investigations.

17 (2) Each license applicant must disclose on the
18 application form any criminal convictions for offenses graded
19 above summary offenses covering the ten-year period
20 immediately preceding the filing of the application. The
21 license applicant must also include on the application form
22 any convictions of the gambling laws of any jurisdiction.

23 (3) If the license applicant has conducted a gaming
24 operation in a jurisdiction which permits such activity, the
25 license applicant must produce letters of reference from the
26 gaming or casino enforcement or control agency which specify
27 the experiences of the agency with the license applicant, the
28 license applicant's associates and the license applicant's
29 gaming operations. If the license applicant is unable to
30 obtain these letters within 60 days of the request, the

1 license applicant may submit a copy of the letter requesting
2 the information together with a statement under oath or
3 affirmation that, during the period activities were
4 conducted, the license applicant was in good standing with
5 the appropriate gambling or casino enforcement control
6 agency.

7 (4) Each license applicant must provide information,
8 documentation and assurances as required by the commission to
9 establish by clear and convincing evidence the license
10 applicant's good character, honesty and integrity.

11 Information under this paragraph may relate to family,
12 habits, character, reputation, business affairs, financial
13 affairs, business associates, professional associates and
14 personal associates, covering the ten-year period immediately
15 preceding the filing of the application.

16 (c) Third party disclosure.--Each license applicant must
17 accept any risk of adverse public notice, embarrassment,
18 criticism, damages or financial loss, which may result from
19 disclosure or publication by a third party of material or
20 information requested by the commission pursuant to action on an
21 application. The license applicant expressly must waive a claim
22 against the commission, executive director or the Commonwealth
23 and its employees from damages as a result of disclosure or
24 publication by a third party.

25 (d) Hearing upon denial.--A person that is denied a license
26 has the right to a hearing before the commission in accordance
27 with the provisions of 2 Pa.C.S. Ch. 5 Subch. A (relating to
28 practice and procedure of Commonwealth agencies) and Ch. 7
29 Subch. A (relating to judicial review of Commonwealth agency
30 action).

(e) Sole proprietor vendor.--A sole proprietor vendor must comply with all of the following:

(1) Be a resident of this Commonwealth for at least two years prior to application for a license.

(2) Be of good moral character and reputation in the community.

(3) Be at least 18 years of age.

(4) Be current in the payment of all taxes, interest and penalties owed to the Commonwealth and political subdivisions. This paragraph excludes items under formal dispute or appeal under applicable law.

(5) Demonstrate sufficient financial resources to support the activities required to place and service video gaming machines.

(f) Partnership vendors.--Partnership vendors must comply with all of the following:

(1) Be current in the payment of taxes, interest and penalties owed to the Commonwealth and political subdivisions. This paragraph excludes items under formal dispute or appeal under applicable law.

(2) Demonstrate sufficient financial resources to support the activities required to place and service video gaming machines.

(3) Have each partner be:

(i) of good moral character and reputation in the community;

(ii) at least 18 years of age; and

(iii) a resident of this Commonwealth for at least two years prior to application for a license.

(4) At all times subsequent to licensing, a majority of

1 the partnership ownership interest must be held by residents
2 of this Commonwealth.

3 (g) Association and corporate vendors.--Association or
4 corporate vendors must comply with all of the following:

5 (1) Be current in the payment of taxes, interest and
6 penalties owed to the Commonwealth and political
7 subdivisions. This paragraph excludes items under formal
8 dispute or appeal under applicable law.

9 (2) Demonstrate sufficient financial resources to
10 support the activities required to place and service video
11 gaming machines.

12 (3) Have each shareholder holding more than 10% of the
13 stock of a corporation be:

14 (i) of good moral character and reputation in the
15 community;

16 (ii) at least 18 years of age; and

17 (iii) a resident of this Commonwealth for at least
18 two years prior to application.

19 (h) Sole proprietor distributor.--A sole proprietor
20 distributor must comply with all of the following:

21 (1) Be a resident of this Commonwealth for at least one
22 year prior to application.

23 (2) Be of good moral character and reputation in the
24 community.

25 (3) Be at least 18 years of age.

26 (4) Be current in the payment of taxes, interest and
27 penalties owed to the Commonwealth and political subdivision.
28 This paragraph excludes items under formal dispute or appeal
29 under applicable laws.

30 (5) Demonstrate sufficient financial resources to

1 support the activities required to sell and service video
2 gaming machines.

3 (i) Partnership distributors.-- Partnership distributors
4 must comply with all of the following:

5 (1) Be current in the payment of taxes, interest and
6 penalties owed to the Commonwealth and political
7 subdivisions. This paragraph excludes items under formal
8 dispute or appeal under applicable law.

9 (2) Demonstrate sufficient financial resources to
10 support the activities required to sell and service video
11 gaming machines.

12 (3) Have each partner be:

13 (i) of good moral character and reputation in the
14 community;

15 (ii) at least 18 years of age; and

16 (iii) a resident of this Commonwealth for at least
17 one year prior to application.

18 (4) At all times subsequent to licensing, a majority of
19 the partnership ownership interest must be held by residents
20 of this Commonwealth.

21 (j) Association and corporate distributors.--Association or
22 corporate distributors must comply with all of the following:

23 (1) Be current in the payment of taxes, interest and
24 penalties owed to the Commonwealth and political
25 subdivisions. This paragraph excludes items under formal
26 dispute or appeal under applicable law.

27 (2) Demonstrate sufficient financial resources to
28 support the activities required to sell and service video
29 gaming machines.

30 (3) Have each shareholder holding more than 10% of the

1 stock of a corporation be:

2 (i) of good moral character and reputation in the
3 community;

4 (ii) at least 18 years of age.

5 (4) For at least one year immediately prior to
6 application, have maintained and operated a coin machine
7 distributorship office and sales staff within this
8 Commonwealth. This paragraph does not apply to an association
9 distributor.

10 (k) Sole proprietor manufacturers.--A sole proprietor
11 manufacturer must comply with all of the following:

12 (1) Be of good moral character and reputation in the
13 community.

14 (2) Be at least 18 years of age.

15 (3) Be current in the payment of taxes, interest and
16 penalties owed to the Commonwealth and political
17 subdivisions. This paragraph excludes items under formal
18 dispute or appeal under applicable law.

19 (4) Demonstrate sufficient financial resources to
20 support the activities required to manufacture and sell video
21 gaming machines through a licensed distributor.

22 (l) Partnership manufacturers.--Partnership manufacturers
23 must comply with all of the following:

24 (1) Be current in the payment of taxes, interest and
25 penalties owed to the Commonwealth and political
26 subdivisions. This paragraph excludes items under formal
27 dispute or appeal under applicable law.

28 (2) Demonstrate sufficient financial resources to
29 support the activities required to manufacture and sell video
30 gaming machines through a licensed distributor.

(3) Have each partner be:

(i) at least 18 years of age; and

(ii) of good moral character and reputation in the community.

(m) Association and corporate manufacturers.--Association or corporate manufacturers must comply with all of the following:

(1) Be current in the payment of taxes, interest and penalties owed to the Commonwealth and political subdivisions. This paragraph excludes items under formal dispute or appeal under applicable law.

(2) Demonstrate sufficient financial resources to support the activities required to manufacture and sell video gaming machines through a licensed distributor.

(3) Have each shareholder holding more than 10% of the stock of the corporation or association be:

(i) of good moral character and reputation in the community; and

(ii) at least 18 years of age.

Section 14. Licensed establishment license.

The commission shall issue a license to any licensed establishment upon a showing that its liquor or retail dispensers license is valid and is in good standing with the Pennsylvania Liquor Control Board. The annual fee for a licensed establishment shall be \$500 per video gaming machine.

Section 15. Limitations on licensed establishments.

Licensed establishments shall be subject to the following limitations:

(1) No licensed establishment may have more than five video gaming machines. A licensed establishment which requests a video gaming machine must receive one machine

1 before any other licensed establishment receives second or
2 subsequent machines.

3 (2) No applicant may hold more than one type of license
4 authorized by this act.

5 (3) Each licensee is responsible for payment of its
6 license fee. Payment of the fee by a person, partnership or
7 corporation other than the licensee is prohibited.

8 Section 16. Central communications system.

9 The commission shall establish and procure a central
10 communications system capable of monitoring and communicating
11 with each licensed video gaming machine. The commission may, by
12 agreement between the commission and the Pennsylvania State
13 Lottery, utilize the central communications system utilized by
14 the State Lottery. All licensed video gaming machines must be
15 linked to the central communications system either at the
16 commission or, by agreement between the commission and the
17 Pennsylvania State Lottery, at the Pennsylvania State Lottery.

18 Section 17. Video gaming machine prototype.

19 The commission shall develop a prototype video gaming machine
20 which includes hardware and software specifications. These
21 specifications shall include:

22 (1) All machines must have the ability to interact with
23 the central communications system.

24 (2) Unremovable identification plates shall appear on
25 the exterior of the machine containing the name of the
26 manufacturer and the serial and model number of the machine.

27 (3) Rules of play shall be displayed on the machine face
28 or screen as promulgated by the commission.

29 (4) A video gaming machine may not directly dispense
30 coins, cash, tokens or any other article of exchange or value

1 except for tickets. Such tickets shall be dispensed by
2 pressing the ticket dispensing button on the machine at the
3 end of one's turn or play. The ticket shall indicate the
4 total amount of credits and the cash award, and the player
5 shall turn in this ticket to the appropriate person at the
6 licensed establishment to receive the cash award. The cost of
7 the credit shall be \$.25, and the number of credits played
8 per game shall not exceed ten.

9 (5) No cash award for any individual game may exceed
10 \$1,000.

11 (6) All video gaming machines must be designed and
12 manufactured with total accountability, to include gross
13 proceeds, net profits, winning percentages and any other
14 information the commission requires.

15 (7) Each machine shall pay out a minimum of 80% of the
16 amount wagered.

17 Section 18. Fees.

18 (a) Vendors license and fee.--The annual fee for a machine
19 vendors license shall be \$25,000 for the first 50 video gaming
20 machines and an additional \$500 per video gaming machine license
21 in excess of 50. A machine vendor license permits the vendor to
22 sell video gaming machines to another licensed machine vendor or
23 licensed distributor.

24 (b) Distributor's license fee.--The annual fee for a
25 distributor's license shall be \$25,000.

26 (c) Manufacturer's license fee.--The annual fee for a
27 manufacturer's license shall be \$25,000.

28 Section 19. Unlawful use by minors.

29 (a) Minors.--No individual under 21 years of age may use or
30 play a video gaming machine. An individual who violates this

1 subsection commits a summary offense.

2 (b) Licensees.--

3 (1) A licensed establishment may not, regardless of
4 knowledge or intent, permit an individual under 21 years of
5 age to play or use a video gaming machine.

6 (2) A licensed establishment that violates this
7 subsection commits a misdemeanor of the second degree.

8 (3) The establishment of any of the following facts
9 constitutes a defense to prosecution under this subsection:

10 (i) The minor falsely represented in writing that
11 the minor was 21 years of age or older.

12 (ii) The appearance of the minor was such that an
13 ordinary person of prudent judgment would believe the
14 minor to be 21 years of age or older.

15 Section 20. Inducements prohibited.

16 (a) General rule.--A video gaming machine owner may not
17 offer or give any type of inducement or incentive to a licensed
18 establishment to secure a machine placement agreement.

19 (b) Definition.--As used in this section, the term
20 "inducement" or "incentive" means consideration from a licensed
21 machine vendor to a licensed establishment owner as an
22 enticement to solicit or maintain the licensed establishment
23 owners business. The term includes cash, gifts, loans, and
24 prepayment of commissions.

25 Section 21. Illegal activities.

26 A person may not sell, distribute, service, own, operate or
27 place on location a video gaming machine unless the person is
28 licensed pursuant to this act and is in compliance with all
29 requirements of this act.

30 Section 22. Distribution of funds.

1 (a) Video Gaming Account.--There is established a separate
2 account in the State Treasury to be known as the Video Gaming
3 Account. Fees and fines under this act and the Commonwealth
4 portion of net profits under subsection (b)(2)(iii) shall be
5 deposited in the account.

6 (b) Distribution of net profits.--

7 (1) Net profits shall be calculated by subtracting cash
8 awards from the total consideration played on the machine.

9 (2) The net profits from each video gaming machine shall
10 be distributed in the following manner:

11 (i) 30% to the licensed establishment.

12 (ii) 30% to the licensed vendor.

13 (iii) 40% to the account.

14 (c) Commission funding.--The commission shall derive all
15 funding for its operations related to the establishment,
16 enforcement and operation of video gaming from the account.
17 After June 30, 2003, and before July 1, 2005, funding under this
18 subsection may not exceed 15% of the total annual revenue of the
19 account. After June 30, 2005, funding under this subsection may
20 not exceed 7.5% of the account's total annual revenue.

21 (d) Payments to municipalities.--

22 (1) The commission shall pay each municipality from the
23 account \$1,000 per licensed machine located in the
24 municipality to each municipality.

25 (2) The commission may provide grants to municipalities
26 for the purpose of defraying the costs of local enforcement
27 of the provisions of this act, including enforcement
28 activities related to operation and use of illegal gaming
29 devices. The total of annual grants under this paragraph
30 shall not exceed 1% of the annual revenue of the account.

1 (e) Purposes of account.--An annual minimum balance of
2 \$2,000,000 shall be maintained in the account. Money in excess
3 of this amount at the end of each fiscal year shall be equally
4 distributed to the General Fund and the State Lottery Fund. The
5 portion distributed to the General Fund shall be used for the
6 purpose of local property tax reduction.

7 (f) Funding for compulsive gambling programs.--The
8 commission shall allocate from the account at least \$1,000,000
9 annually for the purpose of treating compulsive gambling in this
10 Commonwealth. Approximately \$500,000 should be earmarked for
11 treatment; and the remainder directed toward prevention,
12 education, training, research and intervention.

13 (g) Continuous appropriation.--The money in the account is
14 continuously appropriated to the account and shall not lapse at
15 the end of any fiscal year.

16 Section 23. Preemption of local taxes and license fees.

17 (a) Statutes.--Video gaming machines shall be exempt from
18 taxes levied under the following:

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

21 (2) The act of December 31, 1965 (P.L.1257, No.511),
22 know as The Local Tax Enabling Act.

23 (3) 53 Pa.C.S. Pt.III Subpt. E (relating to home rule
24 and optional plan government).

25 (4) Any statute which confers taxing authority to a
26 political subdivision.

27 (b) Licensing fees.--

28 (1) Video gaming machines are exempt from local
29 licensing fees.

30 (2) Local licensing fees imposed on all other coin-

1 operated amusement machines shall not exceed \$150.

2 Section 24. Exemption from State gaming laws.

3 Video gaming machines authorized under this act and their use
4 as authorized under this act are exempt from 18 Pa.C.S. § 5513
5 (relating to gambling devices, gambling, etc.).

6 Section 25. Exemption from Federal regulation.

7 The General Assembly declares that the Commonwealth is exempt
8 from section 2 of the Gambling Devices Transportation Act (64
9 Stat. 1134, 15 U.S.C. § 1172). Shipments of approved video
10 gaming machines into this Commonwealth in compliance with
11 sections 3 and 4 of the Gambling Devices Transportation Act (15
12 U.S.C. §§ 1173 and 1174) shall be deemed legal shipments into
13 this Commonwealth.

14 Section 59. Appropriation.

15 The sum of \$, or as much thereof as may be necessary, is
16 hereby appropriated to the Gaming Commission for the fiscal year
17 July 1, 2003, to June 30, 2004, to carry out the provisions of
18 this act.

19 Section 60. Effective date.

20 This act shall take effect in 60 days.