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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 422      Session of  
2005

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INTRODUCED BY COSTA, CAWLEY, DeLUCA, PALLONE, BEBKO-JONES,  
CALTAGIRONE, CRUZ, DALEY, DeWEESE, FABRIZIO, GERGELY,  
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WANSACZ, GRUCELA, KOTIK, PISTELLA, SAINATO, SHANER, SURRA,  
WALKO AND YOUNGBLOOD, FEBRUARY 14, 2005

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REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT,  
FEBRUARY 14, 2005

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AN ACT

1 Amending Title 4 (Amusements) of the Pennsylvania Consolidated  
2 Statutes, providing for video gaming; establishing the Video  
3 Gaming Account; and reorganizing State offices.

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

6 Section 1. Title 4 of the Pennsylvania Consolidated Statutes  
7 is amended by adding a chapter to read:

8 CHAPTER 17

9 VIDEO GAMING

10 Sec.

11 1701. Definitions.

12 1702. (Reserved).

13 1703. (Reserved).

14 1704. (Reserved).

15 1705. (Reserved).

16 1706. (Reserved).

1 1707. (Reserved).  
2 1708. (Reserved).  
3 1709. (Reserved).  
4 1710. Video gaming.  
5 1711. Licensing of manufacturers, distributors and  
6 vendors.  
7 1712. Licensed establishment license.  
8 1713. Limitations on licensed establishments.  
9 1714. Central communications system.  
10 1715. Video gaming machine prototype.  
11 1716. Fees.  
12 1717. Unlawful use by minors.  
13 1718. Inducements prohibited.  
14 1719. Illegal activities.  
15 1720. Establishment of account; distribution of funds.  
16 1721. Preemption of local taxes and license fees.  
17 1722. Exemption from State gaming laws.  
18 1723. Exemption from Federal regulation.  
19 § 1701. Definitions.

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

23 "Account." The Video Gaming Account established in section  
24 1720 (relating to establishment of account; distribution of  
25 funds).

26 "Board member." A member of the Pennsylvania Gaming Control  
27 Board.

28 "Chairman." The chairman of the Pennsylvania Gaming Control  
29 Board.

30 "Coin-operated amusement machine." A machine that requires

1 the insertion of a coin, currency or tokens to play or activate  
2 an amusement game or music machine.

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

7 "Gaming board." The Pennsylvania Gaming Control Board.

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

12 "Machine vendor." Any individual, partnership, association  
13 or corporation that:

14 (1) is licensed by the Pennsylvania Gaming Control  
15 Board; and

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

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

20 (1) is licensed by the Pennsylvania Gaming Control  
21 Board; 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       "State Lottery." The lottery established and operated under  
5 the act of August 26, 1971 (P.L.351, No.91), know as the State  
6 Lottery Law.

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

8           (1) that, upon insertion of a coin or currency, will  
9 play or simulate the play of a video poker, bingo, keno,  
10 blackjack or other game authorized by the Pennsylvania Gaming  
11 Control Board;

12          (2) that utilizes a video display and microprocessors;  
13 and

14          (3) in which, by the skill of the player or by chance,  
15 the player may receive free games or credits that may be  
16 redeemed for cash.

17 § 1702. (Reserved).

18 § 1703. (Reserved).

19 § 1704. (Reserved).

20 § 1705. (Reserved).

21 § 1706. (Reserved).

22 § 1707. (Reserved).

23 § 1708. (Reserved).

24 § 1709. (Reserved).

25 § 1710. Video gaming.

26 The gaming board shall provide for video gaming at licensed  
27 establishments. With the exception of tickets indicating credits  
28 won, which are redeemable for cash, no machine may directly  
29 dispense coins, cash, tokens or anything else of value.

30 § 1711. Licensing of manufacturers, distributors and vendors.

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

- (1) An examination of criminal or civil records.
- (2) An examination of personal, financial or business records. This paragraph includes tax returns, bank accounts, business accounts, mortgages and contracts, to which the license applicant is a party or has an interest.
- (3) An examination of personal or business relationships which:
  - (i) include a partial ownership or voting interest in a partnership, association or corporation; and
  - (ii) bear on the fitness of the applicant for licensure.

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

- (1) Each license applicant must:
  - (i) consent in writing to and provide for the examination of financial and business accounts, bank accounts, tax returns and related records, in the applicant's possession or under the applicant's control that establish by clear and convincing evidence the financial stability, integrity and responsibility of the

1 license applicant; and

2 (ii) authorize all third parties in possession or  
3 control of accounts or records under subparagraph (i) to  
4 allow for their examination as deemed necessary by the  
5 gaming board in conducting background investigations.

6 (2) Each license applicant must disclose on the  
7 application form any criminal convictions for offenses graded  
8 above summary offenses covering the ten-year period  
9 immediately preceding the filing of the application. The  
10 license applicant must also include on the application form  
11 any convictions of the gambling laws of any jurisdiction.

12 (3) If the license applicant has conducted a gaming  
13 operation in a jurisdiction that permits such activity, the  
14 license applicant must produce letters of reference from the  
15 gaming or casino enforcement or control agency that specify  
16 the experiences of the agency with the license applicant, the  
17 license applicant's associates and the license applicant's  
18 gaming operations. If the license applicant is unable to  
19 obtain these letters within 60 days of the request, the  
20 license applicant may submit a copy of the letter requesting  
21 the information together with a statement under oath or  
22 affirmation that, during the period activities were  
23 conducted, the license applicant was in good standing with  
24 the appropriate gambling or casino enforcement control  
25 agency.

26 (4) Each license applicant must provide information,  
27 documentation and assurances as required by the gaming board  
28 to establish by clear and convincing evidence the license  
29 applicant's good character, honesty and integrity.

30 Information under this paragraph may relate to family,

1 habits, character, reputation, business affairs, financial  
2 affairs, business associates, professional associates and  
3 personal associates, covering the ten-year period immediately  
4 preceding the filing of the application.

5 (c) Third-party disclosure.--Each license applicant must  
6 accept any risk of adverse public notice, embarrassment,  
7 criticism, damages or financial loss, which may result from  
8 disclosure or publication by a third party of material or  
9 information requested by the gaming board pursuant to action on  
10 an application. The license applicant expressly must waive a  
11 claim against the gaming board or the Commonwealth and its  
12 employees from damages as a result of disclosure or publication  
13 by a third party.

14 (d) Hearing upon denial.--A person who is denied a license  
15 has the right to a hearing before the gaming board in accordance  
16 with the provisions of 2 Pa.C.S. Ch. 5 Subch. A (relating to  
17 practice and procedure of Commonwealth agencies) and Ch. 7  
18 Subch. A (relating to judicial review of Commonwealth agency  
19 action).

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

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

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

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

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

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

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

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

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

13          (3) Have each partner 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 for a license.

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

22       (g) Association and corporate vendors.--Association or  
23       corporate vendors 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 place and service video  
30       gaming machines.



(3) Have each shareholder holding more than 10% of the stock of a corporation 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.

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

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

(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 taxes, interest and penalties owed to the Commonwealth and political subdivisions. This paragraph excludes items under formal dispute or appeal under applicable laws.

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

(i) Partnership distributors.--Partnership distributors 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 sell and service video gaming machines.

1           (3) Have each partner be:

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

3           community;

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

5               (iii) a resident of this Commonwealth for at least

6           one year prior to application.

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

8           the partnership ownership interest must be held by residents

9           of this Commonwealth.

10          (j) Association and corporate distributors.--Association or

11          corporate distributors must comply with all of the following:

12               (1) Be current in the payment of taxes, interest and

13           penalties owed to the Commonwealth and political

14           subdivisions. This paragraph excludes items under formal

15           dispute or appeal under applicable law.

16               (2) Demonstrate sufficient financial resources to

17           support the activities required to sell and service video

18           gaming machines.

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

20           stock of a corporation be:

21               (i) of good moral character and reputation in the

22           community; and

23               (ii) at least 18 years of age.

24               (4) For at least one year immediately prior to

25           application, have maintained and operated a coin machine

26           distributorship office and sales staff within this

27           Commonwealth. This paragraph does not apply to an association

28           distributor.

29          (k) Sole proprietor manufacturers.--A sole proprietor

30          manufacturer must comply with all of the following:

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

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

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

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

11       (1) Partnership manufacturers.--Partnership manufacturers  
12 must comply with all of the following:

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

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

20           (3) Have each partner be:  
21               (i) at least 18 years of age; and  
22               (ii) of good moral character and reputation in the  
23 community.

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

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

30           (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.

§ 1712. Licensed establishment license.

The gaming board 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.

§ 1713. Limitations on licensed establishments.

Licensed establishments shall be subject to the following limitations:

(1) No licensed establishment may have more than three video gaming machines. A licensed establishment which requests a video gaming machine must receive one machine before any other licensed establishment receives second or subsequent machines.

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

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

§ 1714. Central communications system.

The gaming board shall establish and procure a central communications system capable of monitoring and communicating with each licensed video gaming machine. The gaming board may,

1 by agreement between the gaming board and the Pennsylvania State  
2 Lottery, utilize the central communications system utilized by  
3 the State Lottery. All licensed video gaming machines must be  
4 linked to the central communications system either at the gaming  
5 board or, by agreement between the gaming board and the  
6 Pennsylvania State Lottery, at the Pennsylvania State Lottery.

7 § 1715. Video gaming machine prototype.

8 The gaming board shall develop a prototype video gaming  
9 machine that includes hardware and software specifications.

10 These specifications shall include:

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

13 (2) Unremovable identification plates shall appear on  
14 the exterior of the machine containing the name of the  
15 manufacturer and the serial and model number of the machine.

16 (3) Rules of play shall be displayed on the machine face  
17 or screen as promulgated by the gaming board.

18 (4) A video gaming machine may not directly dispense  
19 coins, cash, tokens or any other article of exchange or value  
20 except for tickets. Such tickets shall be dispensed by  
21 pressing the ticket dispensing button on the machine at the  
22 end of one's turn or play. The ticket shall indicate the  
23 total amount of credits and the cash award, and the player  
24 shall turn in this ticket to the appropriate person at the  
25 licensed establishment to receive the cash award. The cost of  
26 the credit shall be \$.25, and the number of credits played  
27 per game shall not exceed ten.

28 (5) No cash award for any individual game may exceed  
29 \$1,000.

30 (6) All video gaming machines must be designed and

1 manufactured with total accountability, to include gross  
2 proceeds, net profits, winning percentages and any other  
3 information the gaming board requires.

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

6 § 1716. Fees.

7 (a) Vendors license and fee.--The annual fee for a machine  
8 vendors license shall be \$25,000 for the first 50 video gaming  
9 machines and an additional \$500 per video gaming machine license  
10 in excess of 50. A machine vendor license permits the vendor to  
11 sell video gaming machines to another licensed machine vendor or  
12 licensed distributor.

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

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

17 § 1717. Unlawful use by minors.

18 (a) Minors.--No individual under 21 years of age may use or  
19 play a video gaming machine. An individual who violates this  
20 subsection commits a summary offense.

21 (b) Licensees.--

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

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

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

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

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

§ 1718. Inducements prohibited.

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

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

§ 1719. Illegal activities.

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

§ 1720. Establishment of account; distribution of funds.

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

(b) Distribution of net profits.--

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

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

(i) 30% to the licensed establishment.

1           (ii) 30% to the licensed vendor.

2           (iii) 30% to the account.

3           (iv) 10% to the account to be returned to the  
4       municipality in which the video gaming machine is  
5       located.

6       (c) Board funding.--The gaming board shall derive all  
7       funding for its operations related to the establishment,  
8       enforcement and operation of video gaming from the account.

9       (d) Payments to municipalities.--In addition to the funds  
10      distributed under subsection (b)(2)(iv) the following shall  
11      apply:

12           (1) The gaming board shall pay each municipality from  
13      the account \$1,000 per licensed machine located in the  
14      municipality to each municipality.

15           (2) The gaming board may provide grants to  
16      municipalities for the purpose of defraying the costs of  
17      local enforcement of the provisions of this chapter,  
18      including enforcement activities related to operation and use  
19      of illegal gaming devices. The total of annual grants under  
20      this paragraph shall not exceed 1% of the annual revenue of  
21      the account.

22       (e) Funds maintained in account.--An annual minimum balance  
23      of \$2,000,000 shall be maintained in the account. Money in  
24      excess of this amount at the end of each fiscal year shall be  
25      distributed to the General Fund.

26       (f) Funding for compulsive gambling programs.--The gaming  
27      board shall allocate from the account at least \$1,000,000  
28      annually for the purpose of treating compulsive gambling in this  
29      Commonwealth. Approximately \$500,000 should be earmarked for  
30      treatment and the remainder directed toward prevention,



1 education, training, research and intervention.

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

5 § 1721. Preemption of local taxes and license fees.

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

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

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

12 (3) The provisions of 53 Pa.C.S. Pt. III Subpt. E  
13 (relating to home rule and optional plan government).

14 (4) Any statute that confers taxing authority to a  
15 political subdivision.

16 (b) Licensing fees.--

17 (1) Video gaming machines are exempt from local  
18 licensing fees.

19 (2) Local licensing fees imposed on all other coin-  
20 operated amusement machines shall not exceed \$150.

21 § 1722. Exemption from State gaming laws.

22 Video gaming machines authorized under this chapter and their  
23 use as authorized under this chapter are exempt from 18 Pa.C.S.  
24 § 5513 (relating to gambling devices, gambling, etc.).

25 § 1723. Exemption from Federal regulation.

26 The General Assembly declares that the Commonwealth is exempt  
27 from section 2 of the Gambling Devices Transportation Act (64  
28 Stat. 1134, 15 U.S.C. § 1172). Shipments of approved video  
29 gaming machines into this Commonwealth in compliance with  
30 sections 3 and 4 of the Gambling Devices Transportation Act (15

1 U.S.C. §§ 1173 and 1174) shall be deemed legal shipments into  
2 this Commonwealth.

3 Section 2. This act shall take effect in 60 days.