
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 863 Session of
2009

INTRODUCED BY COSTA, RAFFERTY, GREENLEAF, TARTAGLIONE, FONTANA,
PIPPY AND FARNESE, MAY 11, 2009

REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,
MAY 11, 2009

AN ACT

1 Providing for gaming integrity; and imposing penalties.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Gaming
6 Integrity Act.

7 Section 2. Legislative intent.

8 The General Assembly finds and declares as follows:

9 (1) With the enactment of 4 Pa.C.S. Pt. II (relating to
10 gaming), the General Assembly legalized slot machine gaming
11 in the Commonwealth of Pennsylvania to inure to the benefit
12 of the Commonwealth's taxpayers.

13 (2) The enactment of legalized gaming was intended to
14 enhance the Commonwealth's horse racing industry while
15 providing a significant source of new revenue to support
16 property tax relief, wage tax reduction, economic development
17 opportunities and other similar initiatives.

1 (3) 4 Pa.C.S. Pt. II was designed to protect the public
2 from the social ills historically related to the gaming
3 industry and to ensure that the Commonwealth's gaming
4 industry operates at the highest levels of integrity and is
5 beyond reproach. As such, the conduct of legalized gaming was
6 to be subject to strict regulation and oversight with the
7 protection of the public interest to be of paramount concern.

8 (4) Recognizing the dangers historically associated with
9 gaming and the issues other jurisdictions faced with respect
10 to public corruption, or the appearance of public corruption,
11 when legalizing gaming, the General Assembly declared it to
12 be the public policy of the Commonwealth and in the best
13 interests of the Commonwealth's citizens to avoid corruption,
14 or the appearance of corruption, by prohibiting certain
15 individuals and entities associated with the gaming industry
16 from making political contributions.

17 (5) Recently, in *DePaul v. Commonwealth*, ____ Pa. ____,
18 ____A.2d ____ (No. 194 EM 2007, decided May 1, 2009), the
19 Pennsylvania Supreme Court declared that the total ban on
20 campaign contributions contained in 4 Pa.C.S. Pt. II
21 unconstitutional under Article I, section 7 of the
22 Pennsylvania Constitution. In so doing, the court held that
23 the provisions of 4 Pa.C.S. Pt. II did not meet a "strict
24 scrutiny" analysis under Article I, section 7 of the
25 Pennsylvania Constitution as the provisions were not
26 "narrowly tailored to further a compelling government
27 interest" because the stated intent in 4 Pa.C.S. Pt. II was
28 to address only "large" campaign contributions.

29 (6) With the passage of this act, it is the intention of
30 the General Assembly to address *DePaul v. Commonwealth* and

1 enact a complete ban on political contributions by
2 individuals and entities subject to this act and 4 Pa.C.S.
3 Pt. II. In carrying out this intent, the General Assembly
4 finds and declares as follows:

5 (i) The General Assembly has a compelling interest
6 in protecting the integrity of both the electoral process
7 and the legislative process by preventing corruption and
8 the appearance of corruption which may arise through
9 permitting campaign contributions by the gaming industry.

10 (ii) Historical evidence from other states that have
11 legalized gaming shows that the potential for corruption
12 associated with the gaming industry is real.

13 (iii) Completely banning political contributions by
14 those individuals and entities subject to this act and 4
15 Pa.C.S. Pt. II is necessary to prevent corruption, or the
16 appearance of corruption, that may arise when politics
17 and gaming are intermingled.

18 (iv) Decoupling politics and gaming through a total
19 ban of campaign contributions is the only manner in which
20 to guarantee that the Commonwealth's gaming industry, and
21 those who regulate it, are beyond reproach.

22 (v) This act is narrowly tailored to further the
23 Commonwealth's compelling interest. The ban contained in
24 this act is not applicable to all individuals associated
25 with gaming, rather it is specifically targeted to those
26 who have substantial interests in, or responsibilities
27 with, licensed gaming entities.

28 (vi) This act is narrowly tailored to further the
29 compelling interest because it leaves numerous avenues
30 through which individuals can participate in the

1 political process. This act does not prohibit individuals
2 from engaging in any type of "pure speech" that may take
3 the form of a political contribution. Individuals can
4 still express their political opinions to any who will
5 listen, can still announce their support for specific
6 candidates or political parties, can still express their
7 political opinions by voting and can still join political
8 parties or groups and volunteer their services to those
9 parties or groups.

10 (vii) The campaign contribution prohibition presents
11 only a very marginal restriction of an individual's right
12 to free speech and association and involves little direct
13 restraint on an individual's right to engage in political
14 communication or association.

15 (viii) Although other less restrictive means, such
16 as limiting the amount of campaign contributions or
17 limiting the scope of the ban, may exist to further the
18 Commonwealth's goal of preventing corruption, or the
19 appearance of corruption, the General Assembly deems
20 those alternatives inadequate. Campaign contribution
21 limits do not further the General Assembly's stated
22 interest. Allowing small contributions would permit the
23 individuals subject to the provisions under this act or 4
24 Pa.C.S. Pt. II to circumvent the legislative intent by
25 financing a large number of small contributions. In this
26 sense, the ban enacted in this act is analogous to the
27 ban on corporate contributions or contributions by labor
28 unions. Acting in concert, these individuals could make
29 numerous small contributions and, as a group, inject
30 exorbitant sums of money into the political process,

1 thereby raising the appearance of undue influence and
2 corruption. Additionally, limiting the scope of the ban
3 to those public officials or candidates with a connection
4 to legalized gaming also fail to further the General
5 Assembly's stated interest. Predicting what office
6 holders at what levels exert influence in areas related
7 to gaming, whether it be through their elected positions,
8 their individual involvement with political parties or
9 their personal relationships with legislators in general,
10 is impossible. Political pressure is often subtle and
11 comes in many forms. Consequently, deciding which public
12 officials are influential and which ones are not is
13 impracticable and not a valid alternative to a total
14 contribution ban.

15 Section 3. Definitions.

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

19 "Applicant."

20 (1) An applicant for the following, as defined in 4
21 Pa.C.S. § 1103 (relating to definitions):

22 (i) Slot machine license.

23 (ii) Manufacturer license.

24 (iii) Supplier license.

25 (iv) Principal license.

26 (v) Key employee license.

27 (vi) Registration.

28 (2) An applicant for a horse racing or harness racing
29 license issued under the act of December 17, 1981 (P.L.435,
30 No.135), known as the Race Horse Industry Reform Act.

1 (3) The term includes affiliates, intermediaries,
2 subsidiaries or holding companies of an applicant under
3 paragraphs (1) and (2).

4 "Key employee." As defined in 4 Pa.C.S. § 1103 (relating to
5 definitions).

6 "Licensed racing entity." As defined in 4 Pa.C.S. § 1103
7 (relating to definitions).

8 "Licensee."

9 (1) The holder of the following, as defined in 4 Pa.C.S.
10 § 1103 (relating to definitions):

11 (i) Slot machine license.

12 (ii) Manufacturer license.

13 (iii) Supplier license.

14 (iv) Registration.

15 (2) The term includes affiliates, intermediaries,
16 subsidiaries or holding companies of holders of licenses or
17 registrations under paragraph (1).

18 "Political committee." Any committee, club, association or
19 other group of persons which receives contributions or makes
20 expenditures. The term includes a political committee as defined
21 in section 1621(h) of the act of June 3, 1937 (P.L.1333,
22 No.320), known as the Pennsylvania Election Code.

23 "Political contribution." Any monetary or in-kind
24 contribution. The term includes:

25 (1) A payment, gift, subscription, assessment, contract,
26 payment for services, dues, loan, forbearance, advance or
27 deposit of money or any valuable thing made to a candidate or
28 political committee for the purpose of influencing any
29 election in this Commonwealth or for paying debts incurred by
30 or for a candidate or committee before or after any election.

1 (2) The purchase of tickets for events, including
2 dinners, luncheons, rallies and other fundraising events.

3 (3) The granting of discounts or rebates not available
4 to the general public.

5 (4) The granting of discounts or rebates by television
6 and radio stations and newspapers not extended on an equal
7 basis to all candidates for the same office.

8 (5) Payments provided for the benefit of any candidate,
9 including payments for the services of a person serving as an
10 agent of a candidate or committee by a person other than the
11 candidate or committee or person whose expenditures the
12 candidate or committee must report.

13 (6) A receipt or use of anything of value received by a
14 political committee from another political committee and also
15 includes any return on investments by a political committee.

16 "Principal." As defined in 4 Pa.C.S. § 1103 (relating to
17 definitions).

18 "Registrant." Any person registered by the Pennsylvania
19 Gaming Control Board under 4 Pa.C.S. Pt. II (relating to
20 gaming).

21 Section 4. Political contributions.

22 (a) Political contribution restriction.--The following
23 persons shall be prohibited from making a political contribution
24 to a candidate for nomination or election to any public office
25 in this Commonwealth, or to any political party committee or
26 other political committee in this Commonwealth or to any group,
27 committee or association organized in support of a candidate,
28 political party committee or other political committee in this
29 Commonwealth:

30 (1) An applicant.

1 (2) A licensee, licensed racing entity or registrant.

2 (3) A licensed principal or licensed key employee of a
3 licensee, licensed racing entity or registrant.

4 (4) An affiliate, intermediary, subsidiary or holding
5 company of a licensee, licensed racing entity or registrant.

6 (5) A licensed principal or licensed key employee of an
7 affiliate, intermediary, subsidiary or holding company of a
8 licensee, licensed racing entity or registrant.

9 (6) A person who holds a similar gaming license in
10 another jurisdiction and the affiliates, intermediaries,
11 subsidiaries, holding companies, principals or key employees
12 of those entities.

13 (b) Political contributions to certain associations and
14 organizations barred.--The persons prohibited from making
15 political contributions under subsection (a) shall not make a
16 political contribution to any association or organization,
17 including a nonprofit organization, if the political
18 contribution has been solicited by an elected official,
19 executive-level public employee or candidate for nomination or
20 election to a public office in this Commonwealth or the
21 individual knows or has reason to know that the association or
22 organization will donate the contribution or a portion thereof
23 to an elected official, a candidate for nomination or election
24 to public office in this Commonwealth or to a political
25 committee.

26 (c) Internet website.--

27 (1) The board shall establish an Internet website that
28 includes a list of all applicants and licensees and the
29 affiliates, intermediaries, subsidiaries, holding companies,
30 principals and key employees thereof, all persons holding a

1 similar gaming license in another jurisdiction and the
2 affiliates, intermediaries, subsidiaries, holding companies,
3 principals and key employees thereof and any other entity in
4 which the applicant or licensee has any debt or equity
5 security or other ownership or profits interest. An applicant
6 or licensee shall notify the board within seven days of the
7 discovery of any change in or addition to the information.
8 The list shall be published semiannually in the Pennsylvania
9 Bulletin.

10 (2) An individual who acts in good faith and in reliance
11 on the information on the Internet website shall not be
12 subject to any penalties or liability imposed for a violation
13 of this section.

14 (3) The board shall request the information required
15 under paragraph (1) from persons licensed in another
16 jurisdiction who do not hold a license in this Commonwealth
17 and from regulatory agencies in the other jurisdiction. If a
18 licensee in another jurisdiction refuses to provide the
19 information required under paragraph (1), the person and its
20 officers, directors or persons with a controlling interest
21 shall be ineligible to receive any license under this act.

22 (d) Certifications.--

23 (1) Upon submission of an application and prior to the
24 award of a license or registration by the board, the chief
25 executive officer, or other appropriate individual, of each
26 applicant shall certify under oath to the board and the
27 Department of State that the applicant has developed and
28 implemented internal safeguards and policies intended to
29 prevent a violation of this provision and that the applicant
30 has conducted a good faith investigation that has not

1 revealed any violation of this provision since the date the
2 application was filed. If the applicant is an individual, the
3 applicant shall submit an affidavit to the board and the
4 Department of State that the applicant has not violated the
5 provisions of this section since the date the application was
6 filed.

7 (2) No later than February 1 of each year, the chief
8 executive officer, or other appropriate individual, of each
9 licensee shall certify under oath to the board and the
10 Department of State that the licensee has developed and
11 implemented internal safeguards and policies intended to
12 prevent a violation of this provision and that the licensee
13 has conducted a good faith investigation that has not
14 revealed any violation of this subsection during the prior
15 calendar year.

16 (e) Civil penalties.--The following civil penalties shall
17 apply to a violation of this section:

18 (1) For a violation committed by a person prohibited
19 from making a contribution under subsection (a)(1), the board
20 shall impose a fine equal to three times the amount of the
21 contribution made or \$100,000, whichever is greater. A
22 violation of this section by an applicant shall constitute
23 grounds for denial of the application.

24 (2) For a violation of this section committed by a
25 person prohibited from making a contribution under subsection
26 (a)(2) or (4), the following shall apply:

27 (i) For a slot machine licensee, the board shall
28 impose a fine of not less than an average single day's
29 gross terminal revenue of the slot machine licensee
30 derived from the operation of slot machines in this

1 Commonwealth. For a second violation of this section
2 within five years of the first violation, the board shall
3 impose a fine of not less than an average of five days'
4 gross terminal revenue of the slot machine licensee
5 derived from the operation of slot machines in this
6 Commonwealth. For a third violation of this section
7 within five years of the second violation, the board
8 shall immediately revoke the license held by the slot
9 machine licensee. A fine levied under this subparagraph
10 may not be less than \$100,000.

11 (ii) For a manufacturer or supplier licensee, the
12 board shall impose a fine of not less than one day's
13 average of the gross profit from sales made by the
14 manufacturer or supplier in Pennsylvania during the
15 preceding 12-month period or portion thereof in the event
16 the manufacturer or supplier has not operated in
17 Pennsylvania for 12 months. A second violation of this
18 section within five years of the first violation shall be
19 punishable by a one-month suspension of the license held
20 by the manufacturer or supplier and a fine of not less
21 than two times one day's average of the gross profit from
22 sales made by the manufacturer or supplier in
23 Pennsylvania during the preceding 12-month period or
24 portion thereof in the event the manufacturer or supplier
25 has not operated in Pennsylvania for 12 months. For a
26 third violation of this section within five years of the
27 second violation, the board shall immediately revoke the
28 license. A fine levied under this subparagraph may not be
29 less than \$100,000.

30 (iii) For a licensed racing entity or registrant,

1 the board shall impose a fine equal to three times the
2 amount of the contribution made or \$100,000, whichever is
3 greater. For a second violation of this section within
4 five years of the first violation, the board or the
5 commission shall impose a one-month suspension of the
6 registration or horse or harness racing license held by
7 the licensed racing entity. For a third violation of this
8 section within five years of the second violation, the
9 board or the commission shall immediately revoke the
10 registration or the horse or harness license held by the
11 licensed racing entity.

12 (3) For a violation committed by a person prohibited
13 from making a contribution under subsection (a)(3) or (5),
14 the board shall impose a fine equal to three times the amount
15 of the contribution made. The board shall also impose a fine
16 under paragraph (2) against the licensee, licensed racing
17 entity or registrant with which the person is associated. For
18 a second violation of this section, the board shall impose
19 the fines authorized under this subparagraph and shall
20 suspend the principal or key employee's license for a period
21 of 30 days. For a third violation of this section, the board
22 shall impose the fines authorized under this subparagraph and
23 shall revoke the principal or key employee's license.

24 (4) For a violation committed by a person prohibited
25 from making a contribution under subsection (a)(6), the board
26 shall impose a fine equal to three times the amount of the
27 contribution made. A person fined under this paragraph shall
28 be prohibited from applying for a license, permit or
29 registration under this part for a period of six months from
30 the date the board imposes the fine. For a second violation

1 of this section, the board shall impose the fine authorized
2 under this paragraph and shall prohibit the person from
3 applying for a license, permit or registration under this
4 part for a period of one year from the date the board imposes
5 the fine. For a third violation of this section, the board
6 shall impose the fines authorized under this paragraph and
7 shall prohibit the person from applying for a license, permit
8 or registration under this part for a period of five years
9 from the date the board imposes the fine.

10 (5) Any candidate for nomination or election to any
11 public office in this Commonwealth, any political party
12 committee or other political committee in this Commonwealth,
13 or any group, committee or association organized in support
14 of a candidate, political party committee or other political
15 committee in this Commonwealth that accepts a contribution
16 prohibited under this section commits a violation of this
17 section. The Department of State shall have jurisdiction over
18 violations of this section committed by those persons or
19 entities identified in this paragraph. In addition to any
20 other penalty authorized by law, the Department of State
21 shall require the return of the contribution and shall impose
22 a fine equal to three times the amount of the contribution
23 accepted. An individual who acts in good faith and in
24 reliance on the information on the Internet website under
25 subsection (c) (2) shall not be subject to any penalties or
26 liability imposed for a violation of this section.

27 (f) Criminal penalties.--In addition to any fine or sanction
28 that may be imposed by the board, any person who makes a
29 contribution in violation of this act commits a misdemeanor of
30 the third degree.

1 Section 20. Effective date.

2 This act shall take effect in 60 days.