

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 65 Session of
2011

INTRODUCED BY SCHRODER, TURZAI, SAYLOR, VEREB, M. O'BRIEN,
BAKER, BARRAR, CARROLL, D. COSTA, GROVE, MURPHY, RAPP, REESE,
ROAE, SWANGER, VULAKOVICH, WATSON, PICKETT AND MURT,
JANUARY 24, 2011

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY
2, 2012

AN ACT

1 Amending Title 4 (Amusements) of the Pennsylvania Consolidated
2 Statutes, providing for Internet gambling public awareness
3 campaign and for revocation and auction of slot machine
4 license; further providing for Category 2 slot machine
5 license, for number of slot machine licenses and for table
6 game taxes; and providing for prohibition on use of State
7 funds.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Title 4 of the Pennsylvania Consolidated Statutes
11 is amended by adding sections to read:

12 § 1207.1. Internet gambling public awareness campaign.

13 (a) General rule.--The board shall establish an Internet
14 gambling public awareness campaign in order to promote awareness
15 among the general public of issues relating to Internet
16 gambling.

17 (b) Campaign.--The public awareness campaign shall include
18 the development and implementation of public awareness and
19 outreach efforts to inform the public about Internet gambling,

1 including, but not limited to, the following subjects:

2 (1) The legal status of Internet gambling in this
3 Commonwealth.

4 (2) The fact that Internet gambling is unregulated by
5 the Commonwealth, and that the fairness and integrity of
6 Internet gambling cannot be guaranteed.

7 (3) The risks of being defrauded of potentially large
8 amounts of money when gambling on the Internet.

9 (4) The risks to personal safety and bodily harm when
10 using personal identification on the Internet.

11 (5) The risks of identity theft when using personal
12 identification or financial information to gamble on the
13 Internet.

14 (6) Special risks for underage and problem gamblers when
15 gambling on the Internet.

16 (7) Access to services for problem gamblers, including
17 contact information for the Council on Compulsive Gambling
18 and the Department of Health.

19 (c) Agency coordination.--The board shall coordinate its
20 efforts with any activities being undertaken by other State
21 agencies to provide information to the public about Internet
22 gambling.

23 (d) Written information.--The board, within the limits of
24 funds available for this purpose, shall seek to utilize both
25 electronic and print media, and may prepare and disseminate such
26 written information as it deems necessary to accomplish the
27 purposes of this section.

28 (e) Electronic information.--The board shall make available
29 electronically on its Internet website in both English and
30 Spanish, and any other language it deems necessary and

1 appropriate, information about Internet gambling as described in
2 subsection (b).

3 (f) Resources.--The board may accept, for the purposes of
4 the public awareness campaign, any special grant of funds,
5 services or property from the Federal Government or any of its
6 agencies, or from any foundation, organization or other entity.

7 (g) Report.--The board shall report to the Governor and the
8 General Assembly, not later than 18 months after the effective
9 date of this section, on the activities and accomplishments of
10 the Internet gambling public awareness campaign.

11 § 1209.1. Revocation and auction of slot machine license.

12 (a) General rule.--

13 (1) Within 30 days after the revocation of a slot
14 machine license, the board shall initiate a public auction of
15 the slot machine license and table game operation certificate
16 for the highest responsible ~~bid~~ PROPOSAL that will provide ←
17 the greatest amount of projected total revenue to the
18 Commonwealth, and otherwise serves the interests of the
19 citizens of Pennsylvania. The awarding of the slot machine
20 license and table game operation certificate shall be
21 conditional on the successful prospective licensee's ability
22 to satisfy the qualifications as provided in this part and
23 board regulations. The auction shall be conducted in such a
24 manner as to maximize the price for each slot machine license
25 and table game operation certificate. In no case may a
26 Category 1 slot machine license and table game operation
27 certificate be awarded for a fee lower than \$66,500,000. In
28 no case may a Category 2 slot machine license and table game
29 operation certificate be awarded for a fee lower than
30 \$66,500,000. In no case may a Category 3 slot machine license

1 and table game operation certificate be awarded for a fee
2 lower than \$12,500,000.

3 (1.1) For purposes of this section only, the ownership
4 or financial interest restrictions in section 1330 (relating
5 to multiple slot machine license prohibition) shall not
6 apply.

7 (2) The board shall adopt procedures and regulations to
8 facilitate the conduct of the public auction in such a manner
9 as to maximize the price for each slot machine license and
10 table game operation certificate.

11 (b) ~~Bidding~~ AUCTION procedures.--The open and competitive ←
12 ~~bidding~~ AUCTION process shall adhere to the following ←
13 procedures:

14 (1) The board shall make applications for the slot
15 machine license available to applicants pursuant to section
16 1309 (relating to slot machine license application) and allow
17 a reasonable time for applicants to submit applications as
18 well as petitions for authorization to conduct table games
19 pursuant to section 13A12 (relating to petition requirements)
20 to the board.

21 (2) During the filing period of slot machine license
22 applications and petitions to conduct table games, the board
23 shall retain the services of a financial advisory firm to
24 assist the board in conducting the open and competitive
25 ~~bidding~~ AUCTION process. ←

26 (3) A prospective licensee must submit a definitive,
27 noncontingent binding proposal to accept the award of the
28 slot machine license and table game operation certificate.
29 The binding proposal must include the following:

30 (i) The consideration to be paid by the prospective

1 licensee.

2 (ii) Identification of all sources of external
3 financing involved in the transaction and submission of
4 all relevant commitment letters and other evidence of
5 financing.

6 (iii) Identification of the proposed location of the
7 new licensed facility.

8 (iv) Details of agreements with the municipality
9 where the licensed facility is to be located, including:

10 (A) Evidence of municipal approval to the
11 applicant for the licensed facility.

12 (B) Background and status of any discussions and
13 agreements with municipalities regarding the
14 construction of a licensed facility.

15 (v) A list of any regulatory, corporate or other
16 approvals required to consummate a transaction.

17 (vi) Information responsive to any other request for
18 information made by the board or the financial advisory
19 firm.

20 (vii) A description of the proposed ownership
21 structure, including any other equity participants in the
22 binding proposal.



23 (viii) A business plan for the proposed licensed
24 facility, including:

25 (A) General statement of financial viability.

26 (B) Proposed corporate involvement in charitable
27 activity.

28 (ix) Projected financial statements for five years
29 following the projected date to commence gaming
30 operations at the licensed facility.

1 (x) Date by which the prospective licensee will
2 commit to commence gaming operations at the licensed
3 facility.

4 (xi) A projected date until which the prospective
5 licensee agrees to keep such ~~binding~~ proposal open and ←
6 irrevocable.

7 (4) Within five days of its receipt of all of the ~~bid~~ ←
8 proposals, the board shall disclose the content of all of the
9 proposals in a public forum, including:

10 (i) owners' names;

11 (ii) venture partners, if any; and

12 (iii) in the case of applicants for owners'
13 licenses, the locations of the proposed development
14 sites.

15 (5) No later than 30 business days following the opening
16 of the ~~binding~~ proposals, the financial advisory firm shall ←
17 deliver to the board a summary analysis of each ~~binding~~ ←
18 proposal as such has been refined and clarified by the
19 prospective owners.

20 (6) The board shall evaluate the proposals within a
21 reasonable time and select no more than three final
22 applicants to participate in an auction.

23 (7) Following the selection of the three final
24 applicants, the board shall do all of the following:

25 (i) Hold public hearings under section 1205
26 (relating to license or permit application hearing
27 process; public input hearings).

28 (ii) Evaluate the ~~winning bid~~ PROPOSALS OF THE THREE ←
29 FINAL APPLICANTS within a reasonable period of time for
30 license suitability in accordance with all applicable

1 statutory and regulatory criteria, including compliance
2 with sections 1310 (relating to slot machine license
3 application character requirements), 1313 (relating to
4 slot machine license application financial fitness
5 requirements), 1316 (relating to bond for issuance of
6 slot machine license) and proof of financial ability as
7 required by section 13A12(b) (9).

8 (8) By agreeing to participate in the auction or by
9 making a presentation to the board if so requested, each
10 prospective licensee is agreeing that a ~~binding~~ proposal, as ←
11 refined and clarified, shall remain open and irrevocable
12 until the date indicated by such prospective licensee in such
13 proposal. The date indicated shall in no event be less than
14 30 days following the auction.

15 (9) After the auction and following the presentations,
16 the board shall identify a prospective licensee as the
17 winning prospective licensee for the auction.

18 (10) If the winning prospective licensee is unable or
19 otherwise fails to consummate the transaction, including if
20 the board determines that the ~~winning bidder~~ PROSPECTIVE ←
21 LICENSEE does not satisfy the suitability requirements
22 pursuant to this part, the board may, on the same criteria,
23 select from the remaining prospective licensees.

24 (c) Collusion among prospective licensees.--Collusion among
25 prospective licensees is unlawful. Any contract or conspiracy
26 which unreasonably results in underbidding is unlawful. When any
27 person has reason to believe collusion or other anticompetitive
28 practices have occurred among any prospective licensees, a
29 notice of the relevant facts shall be transmitted to the
30 Attorney General, who shall investigate the reports. A

1 prospective licensee who violates this section shall be
2 penalized pursuant to section 1518(b)(ii) (relating to
3 prohibited acts; penalties).

4 (d) Proceeds.--The proceeds of the sale or auction of the
5 slot machine license and table game operation certificate shall
6 be deposited into the Property Tax Relief Fund.

7 (e) Temporary regulations.--

8 (1) In order to facilitate the prompt implementation of
9 this section, regulations promulgated by the board shall be
10 deemed temporary regulations which shall expire not later
11 than two years following the publication of the temporary
12 regulation. The board may promulgate temporary regulations
13 not subject to any of the following:

14 (i) Sections 201, 202, 203, 204 and 205 of the act
15 of July 31, 1968 (P.L.769, No.240), referred to as the
16 Commonwealth Documents Law.

17 (ii) Section 204(b) of the act of October 15, 1980
18 (P.L.950, No.164), known as the Commonwealth Attorneys
19 Act.

20 (iii) The act of June 25, 1982 (P.L.633, No.181),
21 known as the Regulatory Review Act.

22 (2) The board's authority to promulgate temporary
23 regulations under paragraph (1) shall expire one year after
24 the effective date of this section. Regulations adopted after
25 this period shall be promulgated as provided by law.

26 (f) Definition.--As used in this section, "revocation"
27 means a decision by the board to revoke a slot machine license
28 that is final, binding, nonappealable and is not subject to a
29 pending legal challenge.

30 Section 2. Sections 1304(b) and 1307 of Title 4 are amended

1 to read:

2 § 1304. Category 2 slot machine license.

3 * * *

4 (b) Location.--

5 (1) [Two] (i) Subject to the provisions of paragraph
6 (1.1), not more than two Category 2 licensed facilities
7 [and no more shall] may be located by the board within a
8 city of the first class, and not more than one Category 2
9 licensed facility [and no more shall] may be located by
10 the board within a city of the second class.

11 (ii) No Category 2 licensed facility located by the
12 board within a city of the first class shall be within
13 ten linear miles of a Category 1 licensed facility
14 regardless of the municipality where the Category 1
15 licensed facility is located. Except for any Category 2
16 licensed facility located by the board within a city of
17 the first class or a city of the second class, no
18 Category 2 licensed facility shall be located within 30
19 linear miles of any Category 1 licensed facility that has
20 conducted over 200 racing days per year for the two
21 calendar years immediately preceding the effective date
22 of this part and not within 20 linear miles of any other
23 Category 1 licensed facility. Except for any Category 2
24 licensed facility located by the board within a city of
25 the first class, no Category 2 licensed facility shall be
26 located within 20 linear miles of another Category 2
27 licensed facility.

28 (1.1) In the event that a license for a Category 2
29 licensed facility to be located within a city of the first
30 class, which license was issued prior to the effective date

1 of this paragraph, is revoked by the board prior to
2 commencement of operations of the Category 2 licensed
3 facility, then the board shall reissue the revoked Category 2
4 slot machine license, pursuant to section 1209.1 (relating to
5 revocation and action of slot machine license) to another
6 applicant located anywhere in this Commonwealth for a
7 Category 2 licensed facility, provided that:

8 (i) no more than two Category 2 licensed facilities
9 may be located within a city of the first class;

10 (ii) no more than one Category 2 licensed facility
11 may be located in a city of the second class; and

12 (iii) the provisions of paragraph (1)(ii) are
13 satisfied.

14 (2) Within five days of approving a license for an
15 applicant with a proposed licensed facility consisting of
16 land designated a subzone, an expansion subzone or an
17 improvement subzone under the Keystone Opportunity Zone,
18 Keystone Opportunity Expansion Zone and Keystone Opportunity
19 Improvement Zone Act for a slot machine license under this
20 section, the board shall notify the Department of Community
21 and Economic Development. The notice shall include a
22 description of the land of the proposed licensed facility
23 which is designated a subzone, an expansion subzone or an
24 improvement subzone. Within five days of receiving the notice
25 required by this paragraph, the Secretary of Community and
26 Economic Development shall decertify the land of the proposed
27 licensed facility as being a subzone, an expansion subzone or
28 an improvement subzone. Upon decertification in accordance
29 with this paragraph and notwithstanding Chapter 3 of the
30 Keystone Opportunity Zone, Keystone Opportunity Expansion

1 Zone and Keystone Opportunity Improvement Zone Act, a
2 political subdivision may amend the ordinance, resolution or
3 other required action which granted the exemptions,
4 deductions, abatements or credits required by the Keystone
5 Opportunity Zone, Keystone Opportunity Expansion Zone and
6 Keystone Opportunity Improvement Zone Act to repeal the
7 exemptions, deductions, abatements or credits for the land
8 decertified.

9 (3) Notwithstanding any other provision of law, the
10 governing body of a city of the first class shall not exempt
11 from real property taxation or provide any real property tax
12 abatement under the act of December 1, 1977 (P.L.237, No.76),
13 known as the Local Economic Revitalization Tax Assistance
14 Act, to a Category 2 licensed facility located within the
15 city, or any improvements to such facility, unless the owner
16 of the licensed facility enters into or has entered into a
17 tax settlement agreement or payment in lieu of taxes
18 agreement with the city, including any amendments,
19 supplements or modifications of such agreements.

20 § 1307. Number of slot machine licenses.

21 The board may license no more than seven Category 1 licensed
22 facilities and no more than five Category 2 licensed facilities,
23 as it may deem appropriate, as long as [two, and not more ,] not
24 more than two Category 2 licensed facilities are located by the
25 board within the city of the first class and [that one, and not
26 more,] not more than one Category 2 licensed facility is located
27 by the board within the city of the second class, except in the
28 case of license revocation, wherein the provisions of section
29 1304(b)(1.1) (relating to Category 2 slot machine license) shall
30 apply. The board may at its discretion increase the total number

1 of Category 2 licensed facilities permitted to be licensed by
2 the board by an amount not to exceed the total number of
3 Category 1 licenses not applied for within five years following
4 the effective date of this part. Except as permitted by section
5 1328 (relating to change in ownership or control of slot machine
6 licensee), any Category 1 license may be reissued by the board
7 at its discretion as a Category 2 license if an application for
8 issuance of such license has not been made to the board. The
9 board may license no more than three Category 3 Licensed
10 facilities.

11 Section 3. Section 13A62(a)(1) and (3) of Title 4 are
12 amended and subsection (b) is amended by adding a paragraph to
13 read:

14 § 13A62. Table game taxes.

15 (a) Imposition.--

16 (1) Except as provided in paragraphs (2) and (3), each
17 certificate holder shall report to the department and pay
18 from its daily gross table game revenue, on a form and in the
19 manner prescribed by the department, a tax of [12%] 14% of
20 its daily gross table game revenue.

21 * * *

22 [(3) The tax reported and payable under paragraph (1) by
23 each certificate holder shall be 14% of daily gross table
24 game revenue for a period of two years following commencement
25 of table games operations at its licensed facility.]

26 (b) Deposits and distributions.--

27 * * *

28 (4) Beginning with fiscal year 2012-2013, the department
29 shall make an annual distribution of 2% of each certificate
30 holder's daily gross table game revenue to the Property Tax

1 Relief Fund.

2 * * *


3 Section 4. Title 4 is amended by adding a section to read:

4 § 1410. Prohibition on use of State funds.

5 (a) General rule.--No moneys of any fund in the State
6 Treasury may be used directly or indirectly by a Commonwealth
7 agency for the relocation of a licensed facility, and no
8 Commonwealth agency shall provide State funds to any
9 municipality or instrumentality thereof for the purpose of
10 relocating a licensed facility.

11 (b) Definitions.--As used in this section, the following
12 words and phrases shall have the meanings given to them in this
13 subsection:

14 "Commonwealth agency." The term shall have the meaning given
15 to it in section 102 of the act of February 14, 2008 (P.L.6,
16 No.3), known as the Right-to-Know Law.

17 SECTION 4.1. APPLICABILITY IS AS FOLLOWS: 

18 (1) THE ADDITION OF 4 PA.C.S. § 1209.L SHALL APPLY:

19 (I) RETROACTIVELY TO A SLOT MACHINE REVOCATION IN
20 EFFECT ON THE EFFECTIVE DATE OF THIS SECTION; AND

21 (II) TO A SLOT MACHINE REVOCATION WHICH OCCURS AFTER
22 THE EFFECTIVE DATE OF THIS SECTION.

23 (2) FOR A SLOT MACHINE LICENSE REVOCATION UNDER
24 PARAGRAPH (1) (I), THE 30-DAY TIME PERIOD IN 4 PA.C.S. §
25 1209.1(A) (1) SHALL COMMENCE ON THE EFFECTIVE DATE OF THIS
26 SECTION.

27 Section 5. This act shall take effect immediately.