

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 169 Session of 2011

INTRODUCED BY DELOZIER, SWANGER, BARRAR, BUXTON, FLECK, GINGRICH, GRELL, GROVE, HARKINS, KAUFFMAN, M.K. KELLER, LONGIETTI, MATZIE, MILLARD, MILLER, OBERLANDER, QUINN, REICHLEY, ROCK, SAINATO, SONNEY AND VULAKOVICH, JANUARY 19, 2011

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, JANUARY 19, 2011

AN ACT

1 Amending the act of December 19, 1988 (P.L.1262, No.156),  
 2 entitled, as amended, "An act providing for the licensing of  
 3 eligible organizations to conduct games of chance, for the  
 4 licensing of persons to distribute games of chance, for the  
 5 registration of manufacturers of games of chance, and for  
 6 suspensions and revocations of licenses and permits;  
 7 requiring records; providing for local referendum by  
 8 electorate; and prescribing penalties," further providing for  
 9 definitions, for permitted games of chance, for prize limits,  
 10 for insured games, for limited sales, for recordkeeping, for  
 11 eligible organizations' use of locations for conducting small  
 12 games of chance, for separate individual prize limitations,  
 13 for enforcement and for advertising.

14 The General Assembly of the Commonwealth of Pennsylvania  
 15 hereby enacts as follows:

16 Section 1. The definitions of "daily drawing" and "games of  
 17 chance" in section 3 of the act of December 19, 1988 (P.L.1262,  
 18 No.156), known as the Local Option Small Games of Chance Act,  
 19 amended December 19, 1990 (P.L.812, No.195) and October 18, 2000  
 20 (P.L.602, No.79), are amended and the section is amended by  
 21 adding definitions to read:

22 Section 3. Definitions.

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

4 \* \* \*

5 "Daily drawing." A game in which a bona fide member selects  
6 or is assigned a number for a chance at a prize with the winner  
7 determined by [a] random drawing to take place on the eligible  
8 organization's premises [during the same operating day]. The  
9 term includes games commonly known as "member sign-in lotteries"  
10 and "half-and-half lotteries." Nothing in this act shall be  
11 construed to prohibit the carrying over of a jackpot where the  
12 winning number has not been entered in the game on a particular  
13 operating day. Daily drawing winners may be determined with the  
14 aid of a passive selection device or reference to drawings  
15 conducted by the department pursuant to the act of August 26,  
16 1971 (P.L.351, No.91), known as the State Lottery Law. Daily  
17 drawing chances may not be sold for an amount in excess of \$1,  
18 and no more than one chance per individual may be sold [to an  
19 individual during the same operating day.] per drawing. Nothing  
20 in this definition shall restrict an eligible organization from  
21 conducting more than one drawing per day.

22 \* \* \*

23 "Games of chance." Punchboards, daily drawings, weekly  
24 drawings, monthly drawings, raffles and pull-tabs, as defined in  
25 this act, provided that no such game shall be played by or with  
26 the assistance of any mechanical or electrical devices or media  
27 other than a dispensing machine or passive selection device and  
28 further provided that the particular chance taken by any person  
29 in any such game shall not be made contingent upon any other  
30 occurrence or the winning of any other contest, but shall be

1 determined solely at the discretion of the purchaser. This  
2 definition shall not be construed to authorize any other form of  
3 gambling currently prohibited under any provision of Title 18 of  
4 the Pennsylvania Consolidated Statutes (relating to crimes and  
5 offenses). Nothing in this act shall be construed to authorize  
6 games commonly known as "slot machines" or "video poker."

7 "General operating expenses." The following operating  
8 expenses associated with the real property owned or leased by an  
9 eligible organization and used for public interest purposes or  
10 for conducting small games of chance:

- 11 (1) Real property taxes.
- 12 (2) Utilities.
- 13 (3) Heating and air conditioning.
- 14 (4) Water and sewer.
- 15 (5) Property insurance.
- 16 (6) Liability insurance.
- 17 (7) Mortgage payments.
- 18 (8) Interior and exterior repairs, including parking lot  
19 repairs.
- 20 (9) New facility construction.
- 21 (10) Any other expense as provided in regulations  
22 promulgated by the department.

23 The term shall not include wages, alcohol purchases or payment  
24 of any fine levied against the eligible organization.

25 \* \* \*

26 "Monthly drawing." A game in which a bona fide member  
27 selects or receives a number or numbers for chance at a prize  
28 with the winner determined by a random drawing to take place on  
29 the eligible organization's premises during any operating month.  
30 Nothing in this act shall be construed to prohibit the carrying

1 over of a jackpot where the winning number has not been entered  
2 in the game in a particular month. Monthly drawing winners may  
3 be determined with the aid of a passive selection device or  
4 reference to drawings conducted by the Department of Revenue  
5 pursuant to the act of August 26, 1971 (P.L.351, No.91), known  
6 as the State Lottery Law. Monthly drawing chances may not be  
7 sold for an amount in excess of \$1.

8 \* \* \*

9 Section 2. Section 4 of the act, amended December 19, 1990  
10 (P.L.812, No.195), is amended to read:

11 Section 4. Games of chance permitted.

12 Every eligible organization to which a license has been  
13 issued under the provisions of this act may conduct games of  
14 chance for the purpose of raising funds for general operating  
15 expenses and for public interest purposes. [All proceeds of  
16 games of chance shall be used exclusively for public interest  
17 purposes or for the purchase of games of chance as permitted by  
18 this act.] Proceeds of games of chance shall be used as follows:

19 (1) Sixty percent of proceeds shall be used for public  
20 interest purposes.

21 (2) Forty percent of proceeds shall be used for general  
22 operating expenses.

23 Section 3. Section 5 of the act, amended December 19, 1990  
24 (P.L.812, No.195) and October 18, 2000 (P.L.602, No.79), is  
25 amended to read:

26 Section 5. Prize limits.

27 (a) Individual prize limit.--[The] Except as provided for in  
28 subsection (j), the maximum cash value which may be awarded for  
29 any single chance shall be [\$500] \$1,000.

30 (b) Weekly limit.--No more than [\$5,000] \$25,000 in cash or

1 merchandise shall be awarded by any eligible organization in any  
2 seven-day period. Payouts of less than \$26 shall not be counted  
3 toward the weekly limit.

4 (c) Limit on raffles.--No more than \$5,000 in cash or  
5 merchandise shall be awarded in raffles in any calendar month.

6 (d) Exception.--An eligible organization may conduct a  
7 raffle and award a prize or prizes valued in excess of [\$500]  
8 \$1,000 each only under the following conditions:

9 (1) The licensing authority has issued a special permit  
10 for the raffle under section 11.

11 (2) Eligible organizations shall be eligible to receive  
12 no more than [two] three special permits in any licensed year  
13 [except that volunteer fire, ambulance and rescue  
14 organizations shall be eligible to receive no more than three  
15 special permits in any licensed year].

16 (3) Only one raffle may be conducted under each special  
17 permit.

18 (4) The total cash value of all prizes shall be no more  
19 than \$100,000 per calendar year.

20 (e) Limit on daily drawings.--Daily drawings shall be  
21 governed by the prize [limitations] limitation contained in  
22 [subsections (a) and (b)] subsection (a). [An eligible  
23 organization shall not conduct daily drawings during a period  
24 when a weekly drawing is taking place.]

25 (f) Exception.--The prize limitation contained in  
26 [subsections (a) and (b)] subsection (a) may be exceeded by a  
27 daily drawing under the following circumstances: a daily drawing  
28 may award a prize where the cash value is in excess of [\$500]  
29 \$1,000 if such prize is the result of a carryover of a drawing  
30 or drawings which resulted from the winning number in such

1 drawing or drawings not being among the eligible entrants in  
2 such drawings. Nothing contained herein shall authorize the  
3 prize [limitations] limitation as contained in [subsections (a)  
4 and (b)] subsection (a) to be exceeded as a result of a failure  
5 to conduct a drawing on an operating day during which chances  
6 were sold for a daily drawing or for a daily drawing for which  
7 chances were sold in excess of \$1 or for which more than one  
8 chance was sold to an eligible participant.

9 (g) Daily drawing and weekly drawing exception.--When a  
10 daily drawing or weekly drawing is set up or conducted in such a  
11 manner as to pay out or award 100% of the gross revenues  
12 generated from such drawing, the limitations contained in  
13 subsection (b) shall not apply.

14 (h) Limit on weekly drawings.--Weekly drawings shall be  
15 governed by the prize limitations contained in subsection (b).  
16 The prize limitation contained in subsection (b) may be exceeded  
17 by a weekly drawing under the following circumstances: a weekly  
18 drawing may award a prize where the cash value is in excess of  
19 [\$5,000] \$25,000 if such prize is the result of a carryover of a  
20 drawing or drawings which resulted from the winning number or  
21 numbers in such drawing or drawings not being among the eligible  
22 entrants in such drawings. Nothing contained in this act shall  
23 authorize the prize limitations as contained in subsection (b)  
24 to be exceeded as a result of a failure to conduct a drawing for  
25 a week during which chances were sold for a weekly drawing or  
26 for a weekly drawing for which chances were sold in excess of  
27 \$1. [An eligible organization shall not conduct weekly drawings  
28 during a period when a daily drawing is taking place.]

29 (i) Limit on monthly drawings.--No more than \$50,000 in cash  
30 or merchandise may be awarded in any calendar month except under

1 the following circumstances: a monthly drawing may award a prize  
2 where the cash value is in excess of \$50,000 if the prize is the  
3 result of a carryover of a drawing or drawings that resulted  
4 from the winning number or numbers in the drawing or drawings  
5 not being among the eligible entrants in the drawing. Nothing  
6 contained in this act shall authorize the prize limitations to  
7 be exceeded as a result of a failure to conduct a drawing for a  
8 month during which chances were sold for a monthly drawing or  
9 for a monthly drawing for which chances were sold in excess of  
10 \$1.

11 (j) Authorization.--Progressive games shall be permitted  
12 with a maximum cash value of \$5,000. Contributions to the pot  
13 shall be counted against the limit for the week in which the  
14 contribution is made except that when the limit is reached the  
15 amount awarded shall be counted toward the limit only to the  
16 extent it was not previously counted toward a prior week's  
17 limit.

18 (k) Emergency services fundraiser.--Notwithstanding any  
19 other provision of this section, an eligible organization that  
20 performs emergency services shall be permitted to conduct one  
21 drawing per year with an award of \$50,000 for the purpose of  
22 raising funds to purchase emergency services equipment.

23 (l) Definition.--As used in this section, the term  
24 "progressive game" means a game of chance in which a winning  
25 ticket awards the ticketholder an additional chance at another  
26 game of chance.

27 Section 4. The act is amended by adding a section to read:  
28 Section 5.1. Insured games.

29 (a) Authorization.--Notwithstanding any provision of this  
30 act to the contrary, an eligible organization may conduct small

1 games of chance using insured games. Insured games sold by a  
2 licensed distributor shall be insured by a valid insurance  
3 contract issued by an insurance company licensed by the  
4 Insurance Department to do business as an insurance company in  
5 this Commonwealth. Proof of the insurance contract must be  
6 provided to the department prior to the game being sold. The  
7 license of a distributor and an insurance company issuing a  
8 contract for an insured game may be suspended or revoked for  
9 failure to pay an award.

10 (b) Definition.--As used in this section, the term "insured  
11 game" means a game of chance in which the distributor or other  
12 licensed third party guarantees making the payment on a win of a  
13 jackpot.

14 Section 5. Section 6 of the act, amended December 19, 1990  
15 (P.L.812, No.195), is amended to read:

16 Section 6. Sales limited.

17 No person shall sell, offer for sale or furnish games of  
18 chance for use within this Commonwealth except to an eligible  
19 organization or distributor licensed under this act. No game of  
20 chance, other than a raffle, sold, offered for sale or furnished  
21 for use within this Commonwealth shall contain, permit, depict  
22 or designate a prize having a cash value in excess of [\$500]  
23 \$1,000.

24 Section 6. Section 9(b) of the act, amended December 19,  
25 1990 (P.L.812, No.195), is amended to read:

26 Section 9. Regulations of department.

27 \* \* \*

28 (b) Limitation on recordkeeping requirements.--This section  
29 shall not be construed to authorize the department to promulgate  
30 regulations providing for recordkeeping requirements for

1 eligible organizations which require unreasonable or unnecessary  
2 information or a repetitious listing of information. The  
3 department shall strive to keep such recordkeeping requirements  
4 from being an undue hardship or burden on eligible  
5 organizations. Under no circumstances shall the department  
6 require the retention of records for a period in excess of [two  
7 years] one year. Each eligible organization shall report to the  
8 department prizes awarded as required by section 335 of the act  
9 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
10 1971.

11 Section 7. Section 10 of the act, amended December 19, 1990  
12 (P.L.812, No.195) and October 18, 2000 (P.L.602, No.79), is  
13 amended to read:

14 Section 10. Licensing of eligible organizations to conduct  
15 games of chance.

16 (a) License required.--No eligible organization shall  
17 conduct or operate any games of chance unless such eligible  
18 organization has obtained and maintains a valid license issued  
19 pursuant to this section. Auxiliary groups within eligible  
20 organizations shall be eligible to conduct small games of chance  
21 using the license issued to the eligible organization provided  
22 that the auxiliary group or groups are listed on the application  
23 and license of the eligible organization. No additional  
24 licensing fee shall be charged for an auxiliary group's  
25 eligibility under this act. Auxiliary groups shall not include  
26 branches, lodges or chapters of a Statewide organization.

27 (b) Issuance and fees.--The licensing authority shall  
28 license, upon application, within 30 days any eligible  
29 organization meeting the requirements for licensure contained in  
30 this act to conduct and operate games of chance at such

1 locations within the county or in such manner as stated on the  
2 application as limited by subsection (b.1). The license fee to  
3 be charged to each eligible organization shall be [~~\$100~~] \$300,  
4 except for limited occasion licenses which shall be [~~\$10~~] \$30.  
5 Licenses shall be renewable [annually] on a biennial basis upon  
6 the anniversary of the date of issue.

7 (b.1) Location of small games of chance.--Where there exists  
8 a location or premises which is the normal business or operating  
9 site of the eligible organization and is owned or leased by that  
10 eligible organization to conduct its normal business, that site  
11 shall be the licensed premises for small games of chance  
12 conducted by the eligible organization. If that location  
13 consists of more than one building and the eligible organization  
14 wishes to conduct its games in a different building at that  
15 location from the one that is listed on its application and  
16 license, the eligible organization must notify, in writing, the  
17 district attorney and the licensing authority of the change in  
18 building site and the dates and times that will be affected.  
19 When an eligible organization does not own or lease a specific  
20 location to conduct its normal business, that eligible  
21 organization may use another eligible organization's premises to  
22 conduct its games or may make such other arrangements that are  
23 consistent with this act, including, but not limited to, leasing  
24 a premise under a written agreement for a rental which is not  
25 determined by either the amount of receipts realized from the  
26 playing of games of chance nor the number of people attending  
27 except that an eligible organization may lease a facility for a  
28 banquet where a per head charge is applied in connection with  
29 the serving of a meal. When such eligible organization changes  
30 the site of its games from that which is listed on its

1 application and license, the eligible organization must notify,  
2 in writing, the district attorney and licensing authority of the  
3 change in their games' site and dates and times that will be  
4 affected. More than one eligible organization may use the same  
5 location, provided that each eligible organization has a  
6 separate license. If more than one licensed eligible  
7 organization uses the same location, the prize limitations of  
8 this act shall apply to each licensed eligible organization.

9 (b.2) Off-premises games of chance.--Notwithstanding any  
10 other provisions of this section, an eligible organization may  
11 conduct small games of chance at a location off its premises  
12 when such games are part of an annual carnival, fair, picnic or  
13 banquet held or participated in by that eligible organization on  
14 a historical basis. The eligible organization must notify, in  
15 writing, the district attorney and licensing authority of the  
16 location, date and times of such events where it will be  
17 conducting small games of chance.

18 (b.3) Limited occasion licenses.--Eligible organizations  
19 which do not own their own premises or which do not lease a  
20 specific location to conduct their normal business may apply for  
21 a limited occasion license to conduct small games of chance on  
22 not more than three occasions covering a total of seven days  
23 during a licensed year. A limited occasion license entitles  
24 eligible organizations holding such a license to conduct no more  
25 than two raffles during a licensed year where prizes may not  
26 exceed the established limits for regular monthly raffles.  
27 Holders of limited occasion licenses may not apply or be granted  
28 any other license or special permit under this act. No holder of  
29 a regular license or special permit under this act shall apply  
30 or be granted a limited occasion license.

1 (b.4) Gambling facility prohibited.--It shall be unlawful  
2 for a person, corporation, association, partnership or other  
3 business entity to offer for rent or offer for use a building or  
4 facility to be used exclusively for the conducting of small  
5 games of chance. It shall also be unlawful for any eligible  
6 organization to lease under any terms a facility or building  
7 which is used exclusively for the conducting of small games of  
8 chance.

9 (b.5) Authorization.--A licensed eligible organization may  
10 sell on its licensed premises the raffle tickets of another  
11 licensed eligible organization that has been issued a limited  
12 occasion license under subsection (b.3).

13 (c) Display.--Licenses issued pursuant to this section shall  
14 be publicly displayed at the site of the small games of chance.

15 (d) Operation.--Each licensed eligible organization shall  
16 comply with the following restrictions and rules governing the  
17 operation of games of chance:

18 (1) No person under 18 years of age shall be permitted  
19 to operate or play games of chance.

20 (2) No eligible organization shall permit any person who  
21 has been convicted of a felony in a Federal or State court  
22 within the past five years or has been convicted in a Federal  
23 or State court within the past ten years of a violation of  
24 the act of July 10, 1981 (P.L.214, No.67), known as the Bingo  
25 Law, or of this act to manage, set up, supervise or  
26 participate in the operation of games of chance.

27 (3) No eligible organization shall pay any compensation  
28 to any person for conducting any games of chance. Games of  
29 chance may only be conducted by managers, officers,  
30 directors, bar personnel and bona fide members of the

1 eligible organization.

2 (4) Games shall be conducted only on the licensed  
3 premises or as otherwise provided by this act.

4 (5) The eligible organization shall not lease such  
5 premises under either an oral or a written agreement for a  
6 rental which is determined by either the amount of receipts  
7 realized from the playing of games of chance or the number of  
8 people attending, except that an eligible organization may  
9 lease a facility for a banquet where a per head charge is  
10 applied in connection with the serving of a meal. An eligible  
11 organization shall not lease such premises from any person  
12 who has been convicted of a violation of this act within the  
13 past ten years.

14 (6) Games, other than raffles, daily drawings [and],  
15 weekly drawings and monthly drawings, shall be purchased only  
16 from manufacturers and distributors approved by the  
17 department.

18 (7) No licensed eligible organization shall permit its  
19 premises to be used for small games of chance by another  
20 licensed eligible organization at the same time that it is  
21 conducting small games of chance on the premises. When a  
22 licensed eligible organization is permitting another licensed  
23 eligible organization to use its premises for purposes of  
24 small games of chance, it must cease the operation of its own  
25 small games of chance during the period that the other  
26 licensed eligible organization is conducting its games on the  
27 premises.

28 (8) Raffle tickets may be sold off the licensed premise  
29 in any municipality in this Commonwealth which has adopted  
30 the provisions of this act by an affirmative vote in a

1 municipal referendum. A licensed eligible organization which  
2 plans to sell raffle tickets in a municipality located in a  
3 county other than the county in which the eligible  
4 organization is licensed must notify that county's district  
5 attorney and licensing authority as to the location and the  
6 dates that the eligible organization plans to sell raffle  
7 tickets.

8 (9) The eligible organization shall keep a bank account  
9 to hold the proceeds of small games of chance, which shall be  
10 separate from all other funds belonging to the eligible  
11 organization. Account records shall show all expenditures and  
12 income, and these records shall be retained by the eligible  
13 organization for no less than one year in a fire-proof  
14 container.

15 (e) Application for license.--Each eligible organization  
16 shall apply to the licensing authority for a license on a form  
17 to be prescribed by the Secretary of Revenue. The form shall  
18 contain an affidavit to be affirmed by the executive officer or  
19 secretary of the eligible organization stating that:

20 (1) No person under 18 years of age will be permitted by  
21 the eligible organization to operate or play games of chance.

22 (2) The facility in which the games of chance are to be  
23 played has adequate means of ingress and egress and adequate  
24 sanitary facilities available in the area.

25 (3) The eligible organization is not leasing such  
26 premises from the owner thereof under an oral agreement, nor  
27 is it leasing such premises from the owner thereof under a  
28 written agreement at a rental which is determined by the  
29 amount of receipts realized from the playing of games of  
30 chance or by the number of people attending, except that an

1 eligible organization may lease a facility for a banquet  
2 where a per head charge is applied in connection with the  
3 serving of a meal.

4 (4) The eligible organization has a separate bank  
5 account to hold all proceeds of small games of chance.

6 (e.1) Supplemental materials to accompany application.--An  
7 annual financial report limited to the operation of games of  
8 chance detailing gross profit, allowable expenses, rent, staff  
9 per diem, cost of supplies, net profit and contributions to  
10 charitable causes shall be filed with the licensing authority  
11 and submitted with the application. This report shall be filed  
12 with the application for license and shall be filed by the  
13 midterm anniversary date of the license in nonapplication years.  
14 This report shall be prepared on a one-page form to be designed  
15 by the department. The report shall contain information for the  
16 12-month period immediately preceding a date 60 days prior to  
17 the filing of the report. Failure to file the report by the  
18 midterm anniversary date of the license shall result in the  
19 automatic suspension of the license until the licensing  
20 authority certifies the report has been filed in compliance with  
21 this act.

22 (f) List of licensees.--The licensing authority, on a  
23 semiannual basis, shall send a copy of all licensees to the  
24 Department of Revenue.

25 (g) List of municipalities.--The licensing authority shall  
26 include with any license or renewal issued to an eligible  
27 organization, an up-to-date listing of those municipalities  
28 within the licensing county which have approved the referendum  
29 question on small games of chance.

30 (h) Background checks.--Each application shall include

1 criminal history records obtained from the Pennsylvania State  
2 Police for the executive officer or secretary of the eligible  
3 organization making the application, all other responsible  
4 persons listed on the application and the eligible  
5 organization's treasurer.

6 Section 8. Section 13 of the act is amended to read:

7 Section 13. Enforcement.

8 (a) District attorney.--The district attorney shall  
9 investigate alleged violations of this act. If the district  
10 attorney finds probable cause to believe that a violation has  
11 occurred, he may file a complaint against the alleged violator  
12 in the court of common pleas of said county, except in counties  
13 of the first class where the complaint may be filed in the  
14 municipal court. In addition, the district attorney shall  
15 prosecute said complaint in the manner provided by law.

16 (b) Other law enforcement officials.--Nothing in this act  
17 shall be interpreted to restrict the power of State, county or  
18 local law enforcement officials to conduct investigations [and  
19 enforce the provisions] of this act[.] and provide the results  
20 of those investigations to the district attorney for enforcement  
21 pursuant to subsection (a).

22 (c) Department.--The department shall investigate and  
23 enforce violations of this act in accordance with the act of  
24 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and  
25 the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform  
26 Code of 1971.

27 Section 9. Section 15 of the act, amended December 19, 1990  
28 (P.L.812, No.195), is amended to read:

29 Section 15. Advertising.

30 [It shall be unlawful for any] An eligible organization or

1 person [to] may advertise the prizes or their dollar value to be  
2 awarded in games of chance, provided that [prizes may be  
3 identified on raffle tickets. Notwithstanding the prohibition of  
4 advertising contained within this section, an eligible  
5 organization may advertise prizes and values thereof in periodic  
6 publications which are limited in their circulation to members  
7 of the eligible organization.] such advertisements are limited  
8 to publications to members of the eligible organization or signs  
9 located on the eligible organization's premises.

10 Section 10. The amendment or addition of section 10(b),  
11 (e.1) and (h) of the act shall apply to applications filed more  
12 than two years after the effective date of this section.

13 Section 11. This act shall take effect as follows:

14 (1) The following provisions shall take effect  
15 immediately:

16 (i) The amendment or addition of section 10(b),  
17 (e.1) and (h) of the act.

18 (ii) Section 10 of this act.

19 (iii) This section.

20 (2) The remainder of this act shall take effect in 60  
21 days.