

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 169** Session of
2011

INTRODUCED BY SOLOBAY, FOLMER, FONTANA, VOGEL, BREWSTER, MENSCH,
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JANUARY 28, 2011

REFERRED TO FINANCE, JANUARY 28, 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.

23 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 * * *

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

21 * * *

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

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

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

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

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

24 * * *

25 "Monthly drawing." A game in which a bona fide member
26 selects or receives a number or numbers for chance at a prize
27 with the winner determined by a random drawing to take place on
28 the eligible organization's premises during any operating month.
29 Nothing in this act shall be construed to prohibit the carrying
30 over of a jackpot where the winning number has not been entered

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

7 * * *

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

10 Section 4. Games of chance permitted.

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

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

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

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

25 Section 5. Prize limits.

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

29 (b) Weekly limit.--No more than [\$5,000] \$25,000 in cash or
30 merchandise shall be awarded by any eligible organization in any

1 seven-day period. Payouts of less than \$26 shall not be counted
2 toward the weekly limit.

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

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

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

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

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

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

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

24 (f) Exception.--The prize limitation contained in
25 [subsections (a) and (b)] subsection (a) may be exceeded by a
26 daily drawing under the following circumstances: a daily drawing
27 may award a prize where the cash value is in excess of [\$500]
28 \$1,000 if such prize is the result of a carryover of a drawing
29 or drawings which resulted from the winning number in such
30 drawing or drawings not being among the eligible entrants in

1 such drawings. Nothing contained herein shall authorize the
2 prize [limitations] limitation as contained in [subsections (a)
3 and (b)] subsection (a) to be exceeded as a result of a failure
4 to conduct a drawing on an operating day during which chances
5 were sold for a daily drawing or for a daily drawing for which
6 chances were sold in excess of \$1 or for which more than one
7 chance was sold to an eligible participant.

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

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

28 (i) Limit on monthly drawings.--No more than \$50,000 in cash
29 or merchandise may be awarded in any calendar month except under
30 the following circumstances: a monthly drawing may award a prize

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

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

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

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

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

28 (a) Authorization.--Notwithstanding any provision of this
29 act to the contrary, an eligible organization may conduct small
30 games of chance using insured games. Insured games sold by a

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

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

13 Section 5. Sections 6 and 9(b) of the act, amended December
14 19, 1990 (P.L.812, No.195), are amended to read:

15 Section 6. Sales limited.

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

23 Section 9. Regulations of department.

24 * * *

25 (b) Limitation on recordkeeping requirements.--This section
26 shall not be construed to authorize the department to promulgate
27 regulations providing for recordkeeping requirements for
28 eligible organizations which require unreasonable or unnecessary
29 information or a repetitious listing of information. The
30 department shall strive to keep such recordkeeping requirements

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

8 Section 6. Section 10 of the act, amended December 19, 1990
9 (P.L.812, No.195) and October 18, 2000 (P.L.602, No.79), is
10 amended to read:

11 Section 10. Licensing of eligible organizations to conduct
12 games of chance.

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

24 (b) Issuance and fees.--The licensing authority shall
25 license, upon application, within 30 days any eligible
26 organization meeting the requirements for licensure contained in
27 this act to conduct and operate games of chance at such
28 locations within the county or in such manner as stated on the
29 application as limited by subsection (b.1). The license fee to
30 be charged to each eligible organization shall be [\$100] \$300,

1 except for limited occasion licenses which shall be [\$10] \$30.
2 Licenses shall be renewable [annually] on a biennial basis upon
3 the anniversary of the date of issue.

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

1 affected. More than one eligible organization may use the same
2 location, provided that each eligible organization has a
3 separate license. If more than one licensed eligible
4 organization uses the same location, the prize limitations of
5 this act shall apply to each licensed eligible organization.

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

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

28 (b.4) Gambling facility prohibited.--It shall be unlawful
29 for a person, corporation, association, partnership or other
30 business entity to offer for rent or offer for use a building or

1 facility to be used exclusively for the conducting of small
2 games of chance. It shall also be unlawful for any eligible
3 organization to lease under any terms a facility or building
4 which is used exclusively for the conducting of small games of
5 chance.

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

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

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

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

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

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

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

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

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

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

25 (8) Raffle tickets may be sold off the licensed premise
26 in any municipality in this Commonwealth which has adopted
27 the provisions of this act by an affirmative vote in a
28 municipal referendum. A licensed eligible organization which
29 plans to sell raffle tickets in a municipality located in a
30 county other than the county in which the eligible

1 organization is licensed must notify that county's district
2 attorney and licensing authority as to the location and the
3 dates that the eligible organization plans to sell raffle
4 tickets.

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

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

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

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

22 (3) The eligible organization is not leasing such
23 premises from the owner thereof under an oral agreement, nor
24 is it leasing such premises from the owner thereof under a
25 written agreement at a rental which is determined by the
26 amount of receipts realized from the playing of games of
27 chance or by the number of people attending, except that an
28 eligible organization may lease a facility for a banquet
29 where a per head charge is applied in connection with the
30 serving of a meal.

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

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

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

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

27 (h) Background checks.--Each application shall include
28 criminal history records obtained from the Pennsylvania State
29 Police for the executive officer or secretary of the eligible
30 organization making the application, all other responsible

1 persons listed on the application and the eligible
2 organization's treasurer.

3 Section 7. Section 13 of the act is amended to read:

4 Section 13. Enforcement.

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

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

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

24 Section 8. Section 15 of the act, amended December 19, 1990
25 (P.L.812, No.195), is amended to read:

26 Section 15. Advertising.

27 [It shall be unlawful for any] An eligible organization or
28 person [to] may advertise the prizes or their dollar value to be
29 awarded in games of chance, provided that [prizes may be
30 identified on raffle tickets. Notwithstanding the prohibition of

1 advertising contained within this section, an eligible
2 organization may advertise prizes and values thereof in periodic
3 publications which are limited in their circulation to members
4 of the eligible organization.] such advertisements are limited
5 to publications to members of the eligible organization or signs
6 located on the eligible organization's premises.

7 Section 9. The amendment or addition of section 10(b), (e.1)
8 and (h) of the act shall apply to applications filed more than
9 two years after the effective date of this section.

10 Section 10. This act shall take effect as follows:

11 (1) The following provisions shall take effect
12 immediately:

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

15 (ii) Section 9 of this act.

16 (iii) This section.

17 (2) The remainder of this act shall take effect in 60
18 days.