

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 290 Session of 2013

INTRODUCED BY BROOKS, P. DALEY, KRIEGER, SACCONI, P. COSTA, REESE, BOBACK, KULA, PICKETT, YOUNGBLOOD, SNYDER, HARHAI, CALTAGIRONE, D. COSTA, RAPP, CONKLIN, CAUSER, DUNBAR, SAINATO, HARHART, TALLMAN, MATZIE, V. BROWN, KORTZ, C. HARRIS, KAUFFMAN, KNOWLES, COHEN, CARROLL, GINGRICH, EVERETT, DELUCA, READSHAW, HELM, GROVE, MILLER, WATSON, F. KELLER, MOUL, ROAE, DAY, ROCK AND NEUMAN, JANUARY 30, 2013

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, JANUARY 30, 2013

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," in preliminary
 9 provisions, further providing for definitions and providing
 10 for relationship to table games; in games of chance, further
 11 providing for games of chance permitted, for prize limits,
 12 for regulations of the Department of Revenue and for
 13 licensing of eligible organizations to conduct games of
 14 chance; in club licensees, further providing for reports by a
 15 club licensee and for distribution of proceeds; in
 16 enforcement, further providing for enforcement by the Bureau
 17 of Liquor Control Enforcement; and abrogating regulations.

18 The General Assembly of the Commonwealth of Pennsylvania
 19 hereby enacts as follows:

20 Section 1. The definitions of "games of chance" and "public
 21 interest purpose" in section 103 of the act of December 19, 1988
 22 (P.L.1262, No.156), known as the Local Option Small Games of
 23 Chance Act, amended February 2, 2012 (P.L.7, No.2), are amended

1 and the section is amended by adding definitions to read:

2 Section 103. Definitions.

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

6 * * *

7 "A night at the races." A game in which a participant places
8 a wager on a prerecorded horse race.

9 * * *

10 "Coin auction." A game in which a participant buys a
11 numbered paddle for a chance to bid on a donated prize with the
12 winner determined by a random drawing of corresponding numbers.

13 * * *

14 "Games of chance." Punchboards, daily drawings, weekly
15 drawings, 50/50 drawings, raffles, selective raffles, coin
16 auctions, a night at the races, Texas Hold'em card tournament,
17 vertical wheel game and pull-tabs, as defined in this act,
18 provided that no such game shall be played by or with the
19 assistance of any mechanical or electrical devices or media
20 other than a dispensing machine or passive selection device and
21 further provided that the particular chance taken by any person
22 in any such game shall not be made contingent upon any other
23 occurrence or the winning of any other contest, but shall be
24 determined solely at the discretion of the purchaser. This
25 definition shall not be construed to authorize any other form of
26 gambling currently prohibited under any provision of Title 18 of
27 the Pennsylvania Consolidated Statutes (relating to crimes and
28 offenses) or authorized under 4 Pa.C.S. (relating to
29 amusements). Nothing in this act shall be construed to authorize
30 games commonly known as "slot machines" or "video poker."

1 * * *

2 "Public interest purpose." One or more of the following:

3 (1) The activities and operations of a nonprofit
4 benevolent, religious, educational, philanthropic, humane,
5 scientific, patriotic, social welfare, social advocacy,
6 public health, public safety, emergency response,
7 environmental or civic objective.

8 (2) Initiating, performing or fostering worthy public
9 works or enabling or furthering the erection or maintenance
10 of public structures.

11 (3) Lessening the burdens borne by government or
12 voluntarily supporting, augmenting or supplementing services
13 which government would normally render to the people.

14 (4) Improving, expanding, maintaining or repairing real
15 property owned or leased by an eligible organization and
16 relating operational expenses used for purposes specified in
17 paragraphs (1), (2) and (3).

18 The term does not include the erection or acquisition of any
19 real property, unless the property will be used [exclusively]
20 for one or more of the purposes specified in this definition.

21 * * *

22 "Selective raffle." A game in which all of the following
23 occur:

24 (1) The participant buys a ticket or tickets for a
25 chance to win a donated prize.

26 (2) The participant places the ticket or tickets in a
27 designated location for the prize which the participant would
28 like to win.

29 (3) The winner for each prize is determined by a random
30 drawing of tickets with a corresponding number for the prize.

1 "Texas Hold'em card tournament." A community card game where
2 each player may use any combination of five community cards and
3 the player's own two hole cards to make a five-card poker hand.

4 "Vertical wheel game." A game in which a participant places
5 a coin or token on a color, number or word or purchases a ticket
6 containing a color, number or word and watches a spinning
7 vertical wheel until the pointer of the wheel rests on a section
8 of the wheel designating a winner.

9 * * *

10 Section 2. The act is amended by adding a section to read:
11 Section 104. Relationship to table games.

12 A vertical wheel game or a Texas Hold'em card tournament is
13 not a "table game" as defined in 4 Pa.C.S. § 1103 (relating to
14 definitions). The designation of a vertical wheel game and Texas
15 Hold'em card tournament under this act does not preclude the
16 authorization of a vertical wheel game or a Texas Hold'em card
17 tournament as a table game under 4 Pa.C.S. Pt. II (relating to
18 gaming).

19 Section 3. Section 301 of the act, amended October 24, 2012
20 (P.L.1462, No.184), is amended to read:

21 Section 301. Games of chance permitted.

22 Every eligible organization to which a license has been
23 issued under the provisions of this chapter may conduct games of
24 chance for the purpose of raising funds for public interest
25 purposes. Except as provided in Chapter 5, all proceeds of a
26 licensed eligible organization shall be used exclusively for
27 public interest purposes, for the purchase of games of chance,
28 for the payment of the license fee or for the payment of the fee
29 for background checks, as required by this act. An eligible
30 organization, except a club licensee, may use its proceeds from

1 games of chance to fulfill its own public interest purpose.

2 Section 4. Section 302 of the act is amended by adding a
3 subsection to read:

4 Section 302. Prize limits.

5 * * *

6 (e.1) Texas Hold'em requirements.--A licensed eligible
7 organization shall charge an entry fee of not more than \$10 per
8 person to play in a Texas Hold'em tournament. The licensed
9 eligible organization shall pay out prizes to no more than the
10 top five winning persons in a declining manner based on the
11 player's final placement in the tournament. The prize pool shall
12 consist solely of entry fees collected.

13 * * *

14 Section 5. Section 306(b) and (c) of the act, amended
15 October 24, 2012 (P.L.1462, No.184), are amended and the section
16 is amended by adding subsections to read:

17 Section 306. Regulations of department.

18 * * *

19 (a.1.) Review.--The department shall, on an annual basis,
20 review this act and regulations promulgated under this act to
21 determine if regulations relating to games of chance require
22 revision. If the department determines that the regulations need
23 modification, the department may promulgate such regulations
24 within 60 days of its review.

25 (a.2) Expansion.--The department may authorize any
26 additional games of chance for eligible organizations, except
27 for club licensees, and promulgate regulations it deems
28 necessary for such additional games of chance. The department
29 may consult with law enforcement officials responsible for
30 enforcement of this act prior to authorizing any additional

1 games of chance. Additional games of chance shall not include
2 any games that require Internet access for play.

3 (b) Limitation on recordkeeping requirements.--This section
4 shall not be construed to authorize the department to promulgate
5 regulations providing for recordkeeping requirements for
6 licensed eligible organizations which require unreasonable or
7 unnecessary information or a repetitious listing of information.
8 The department shall strive to keep such recordkeeping
9 requirements from being an undue hardship or burden on licensed
10 eligible organizations. For individual prizes in excess of \$600,
11 records shall include the name and address of the winner. An
12 eligible organization shall not obtain or retain receipts of
13 prizes that are donated. An eligible organization shall provide
14 each winner with a receipt of the value of the prize won, unless
15 the prize is cash. Except as provided under section 701(b), the
16 department may not require the retention of records for a period
17 in excess of two years.

18 (c) Reporting requirements.--[Each eligible organization
19 which has proceeds in excess of \$2,500 in a calendar year shall
20 submit an annual report to the department including:] Except for
21 an organization licensed under section 307(b)(1)(i), each
22 eligible organization shall submit an annual report to the
23 department for the 12-month period commencing upon the
24 anniversary of the date the license was issued. The form for the
25 report shall be available in a paper form from the licensing
26 authority and from the department's Internet website. The report
27 may be filed by mail to the department or by the department's
28 Internet website. The report shall include the following:

29 (1) Prizes awarded as required under section 335 of the
30 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform

1 Code of 1971.

2 (2) Amounts expended for public interest purposes.

3 Section 6. Section 307(a), (b), (b.1), (b.2), (b.3), (d.1)
4 and (h) of the act, amended February 2, 2012 (P.L.7, No.2) and
5 October 24, 2012 (P.L.1462, No.184), are amended and subsection
6 (b.1) is amended by adding a paragraph to read:

7 Section 307. Licensing of eligible organizations to conduct
8 games of chance.

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

24 (b) Issuance and fees.--The following shall apply:

25 (1) [The licensing authority shall license, upon
26 application, within 30 days any eligible organization] Within
27 30 days of receiving an application by an organization, the
28 licensing authority shall grant a license to an eligible
29 organization meeting the requirements for licensure contained
30 in this chapter to conduct and operate games of chance at

1 such locations within the county or in such manner as stated
2 on the application as limited by subsection (b.1). The
3 license fee to be charged to [each] an eligible organization
4 shall be [\$100, except for limited occasion licenses which
5 shall be \$10] as follows:

6 (i) For an eligible organization making \$40,000 or
7 less a year in proceeds from games of chance, \$25.

8 (ii) For an eligible organization making more than
9 \$40,000 in proceeds from games of chance, \$100.

10 (2) Licenses shall be [renewable annually upon] issued
11 for a period of one year and may be renewed on or after the
12 anniversary of the date of issue. The license fee shall be
13 used by the licensing authority to administer this act.

14 (b.1) Location of games of chance.--

15 (1) Except as otherwise provided in this section, a
16 licensed eligible organization[, except a limited occasion
17 licensee,] may conduct small games of chance at a licensed
18 premises. The licensed premises shall be indicated on the
19 eligible organization's license application. [Only one
20 license shall be issued per licensed premises. Except as
21 provided under paragraph (4), a licensed eligible
22 organization may not share a licensed premises with another
23 licensed eligible organization; and no licensed eligible
24 organization may permit its premises to be used for small
25 games of chance by another licensed eligible organization.]

26 (2) Where there exists a location or premises which is
27 the normal business or operating site of the eligible
28 organization and the location or premises is owned or leased
29 by that eligible organization to conduct its normal business,
30 that site shall be the eligible organization's licensed

1 premises. If that location consists of more than one
2 building, the eligible organization shall identify the
3 building that will be designated as the licensed premises.

4 (2.1) If an eligible organization wishes to conduct
5 games of chance in a different location from the location
6 that is listed on its application and license, the eligible
7 organization must submit a written request to the district
8 attorney. The request must include the change in the location
9 and the dates and times the games of chance will be operated
10 at the new location. The district attorney may approve or
11 deny the request or stipulate additional requirements as a
12 condition of approval.

13 (3) When an eligible organization does not own or lease
14 a specific location to conduct its normal business, the
15 eligible organization may use the premise of another eligible
16 organization to conduct games of chance or may make
17 arrangements that are consistent with this act to establish a
18 licensed premises, including leasing a premise under a
19 written agreement for a rental; however, the rental may not
20 be determined by either the amount of receipts realized from
21 the conduct of games of chance or the number of people
22 attending. An eligible organization may lease a facility for
23 a banquet in connection with the serving of a meal based on a
24 per-head charge. Prior to the use of the premises of another
25 eligible organization to conduct games of chance, an eligible
26 organization must notify, in writing, the district attorney
27 regarding the location of the premise and the dates and times
28 the games of chance will be operated.

29 [(3.1) Notwithstanding paragraphs (1), (2) and (3), if
30 an eligible organization is unable to conduct games of chance

1 at the location listed on its application and license due to
2 natural disaster, fire or other circumstance that renders the
3 location unusable, the eligible organization may submit a
4 written request to the district attorney to conduct games of
5 chance in a different location, including the licensed
6 premises of another eligible organization. The request must
7 include the change in the location and the dates and times
8 the games of chance will be operated at the alternative
9 location. The district attorney shall establish a limit on
10 the duration of the authorization to conduct games of chance
11 at the alternative location. Following the expiration of the
12 authorization period, the eligible organization must return
13 to the location specified in its application and license or
14 apply to the licensing authority for a new permanent location
15 for the conduct of games of chance. The district attorney may
16 approve or deny the request or stipulate additional
17 requirements as a condition of approval. If an eligible
18 organization permits another eligible organization to use its
19 licensed premises to conduct games of chance under this
20 paragraph, the eligible organization shall cease its
21 operation of games of chance during the time the eligible
22 organization utilizing its premises is conducting its games
23 of chance] (Reserved).

24 (3.2) Notwithstanding paragraphs (1), (2) and (3), the
25 following eligible organizations established to raise funds
26 shall not be required to conduct a 50/50 drawing or a raffle
27 at a licensed premises or to own, lease or establish a
28 licensed premises:

29 (i) A nonprofit sports team.

30 (ii) A primary or secondary school-sponsored club,

1 sports team or organization.

2 [(4) An eligible organization that has obtained a
3 limited occasion license under subsection (b.3) may use
4 another eligible organization's licensed premises to conduct
5 its games of chance. When a licensed eligible organization is
6 permitting a limited occasion licensee to use its licensed
7 premises for purposes of games of chance, it shall cease the
8 operation of its own games of chance during the period that
9 the limited occasion licensee is conducting its games on the
10 premises.]

11 (5) For purposes of major league sports drawings, the
12 facility at which a major league sports team conducts its
13 games shall constitute a premises for purposes of this act.

14 (b.2) Off-premises games of chance.--Notwithstanding any
15 other provisions of this section, all of the following apply:

16 (1) A licensed eligible organization may conduct games
17 of chance at a location off its premises when the games of
18 chance are part of an annual carnival, fair, picnic or
19 banquet held or participated in by that licensed eligible
20 organization on a historical basis. The licensed eligible
21 organization must notify, in writing, the district attorney
22 and licensing authority of the location, date and times of
23 the event where it will be conducting games of chance.

24 (2) Raffle and 50/50 drawing tickets may be sold off the
25 licensed premises in a municipality which has adopted the
26 provisions of this act by an affirmative vote in a municipal
27 referendum. A licensed eligible organization which plans to
28 sell raffle and 50/50 drawing tickets in a municipality
29 located in a county other than the county in which the
30 eligible organization is licensed shall notify that county's

1 district attorney and licensing authority as to the location
2 and the dates that the licensed eligible organization plans
3 to sell raffle tickets.

4 [(b.3) Limited occasion licenses.--Eligible organizations
5 which do not own their own premises or which do not lease a
6 specific location to conduct their normal business may apply for
7 a limited occasion license to conduct games of chance on not
8 more than three occasions covering a total of seven days during
9 a licensed year. A limited occasion license entitles an eligible
10 organization to conduct no more than two raffles during a
11 licensed year where prizes may not exceed the established limits
12 for regular monthly raffles. Holders of a limited occasion
13 license may not apply or be granted any other license or special
14 permit under this act. No holder of a regular license or special
15 permit under this act shall apply or be granted a limited
16 occasion license.]

17 * * *

18 (d.1) Bank account and records.--The licensed eligible
19 organization, except for an organization licensed under
20 subsection (b) (1) (i), shall keep a bank account to hold the
21 proceeds of games of chance, which shall be separate from all
22 other funds belonging to the licensed eligible organization.
23 Account records shall show all expenditures and income and shall
24 be retained by the licensed eligible organization for at least
25 two years.

26 * * *

27 (h) Background checks.--Each application for a license
28 submitted by an eligible organization [which has proceeds in
29 excess of \$2,500 in a year] , except for an organization
30 licensed under subsection (b) (1) (i), shall include the results

1 of a criminal history record information check obtained from the
2 Pennsylvania State Police, as defined in 18 Pa.C.S. § 9102
3 (relating to definitions) and permitted by 18 Pa.C.S. § 9121(b)
4 (relating to general regulations), for the executive officer and
5 [secretary] treasurer of the eligible organization making the
6 application for a license or any other person required by the
7 department.

8 Section 7. Sections 501 and 502 of the act, added February
9 2, 2012 (P.L.7, No.2), are amended to read:

10 Section 501. Club licensee.

11 (a) Report.--

12 (1) Beginning in 2013, a club licensee shall submit
13 semiannual reports to the department for the preceding six-
14 month period on a form and in a manner prescribed by the
15 department. The form shall be available in a paper form from
16 the licensing authority and from the department's Internet
17 website. The report may be filed by mail to the department or
18 by the department's Internet website.

19 (2) The report must be filed under oath or affirmation
20 of an authorized officer of the club licensee.

21 (3) The report shall include all of the following
22 information:

23 (i) The proceeds received by the club licensee from
24 each game of chance conducted, itemized by week.

25 (ii) The amount of prizes paid from all games of
26 chance, itemized by week.

27 (iii) Other costs incurred related to the conduct of
28 games of chance.

29 (iv) The verification of amounts distributed for
30 public interest purposes itemized under section

1 [502(a)(1)] 502(a)(2)(i), itemized by the recipient.

2 (v) An itemized list of expenditures made or amounts
3 retained and expenditures under section [502(a)(2)]
4 502(a)(2)(ii).

5 (vi) The address and the county in which the club
6 licensee is located.

7 (vii) Other information or documentation required by
8 the department.

9 (b) Distribution.--The department shall provide a copy of
10 the report to the Bureau of Liquor Control Enforcement.

11 (c) Posting.--The reports under subsection (a) shall be
12 published on the department's Internet website.

13 Section 502. Distribution of proceeds.

14 (a) Distribution.--The proceeds from games of chance
15 received by a club licensee shall be distributed as follows:

16 [(1) No less than 70% of the proceeds shall be paid to
17 organizations for public interest purposes in the calendar
18 year in which the proceeds were obtained.

19 (2) No more than 30% of the proceeds obtained in a
20 calendar year may be retained by a club licensee and used for
21 the following operational expenses relating to the club
22 licensee:

23 (i) Real property taxes.

24 (ii) Utility and fuel costs.

25 (iii) Heating and air conditioning equipment or
26 repair costs.

27 (iv) Water and sewer costs.

28 (v) Property or liability insurance costs.

29 (vi) Mortgage payments.

30 (vii) Interior and exterior repair costs, including

1 repair to parking lots.

2 (viii) New facility construction costs.

3 (ix) Entertainment equipment, including television,
4 video and electronic games.

5 (x) Other expenses adopted in regulation by the
6 department.]

7 (1) \$40,000 may be retained by the club licensee. There
8 are no restrictions on the use of these proceeds by the club
9 licensee.

10 (2) Any club licensee proceeds remaining after
11 distribution under paragraph (1) shall be distributed as
12 follows:

13 (i) No less than 70% of the proceeds shall be paid
14 to organizations for public interest purposes in the
15 calendar year in which the proceeds were obtained.

16 (ii) No more than 30% of the proceeds obtained in a
17 calendar year may be retained by a club licensee and used
18 for the following operational expenses relating to the
19 club licensee:

20 (A) Real property taxes.

21 (B) Utility and fuel costs.

22 (C) Heating and air conditioning equipment or
23 repair costs.

24 (D) Water and sewer costs.

25 (E) Property or liability insurance costs.

26 (F) Mortgage payments.

27 (G) Interior and exterior repair costs,
28 including repair to parking lots.

29 (H) New facility construction costs.

30 (I) Entertainment equipment, including

1 television, video and electronic games.

2 (J) Other expenses adopted in regulation by the
3 department.

4 (a.1) Amounts retained.--Amounts retained by a club licensee
5 under subsection (a) (2) shall be expended within [the same
6 calendar year] a 12-month period from when the proceeds were
7 received unless the club licensee notifies the department that
8 funds are being retained for a substantial purchase or project.
9 Notification shall include a description of the purchase or
10 project, the cost and the anticipated date of the purchase or
11 project.

12 (b) Prohibition.--

13 (1) Proceeds shall not be used for wages, alcohol or
14 food purchases or for the payment of any fine levied against
15 the club licensee.

16 (2) An officer or employee of a club licensee who
17 operates the game of chance shall not participate in the
18 game. This paragraph shall not apply to a raffle.

19 Section 8. Section 702(b) of the act, amended October 24,
20 2012 (P.L.1462, No.184), is amended to read:

21 Section 702. Enforcement.

22 * * *

23 (b) Bureau of Liquor Control Enforcement.--The following
24 shall apply to enforcement:

25 (1) If the licensee is a club licensee, the Bureau of Liquor
26 Control Enforcement may enforce the provisions of this act in
27 accordance with subsection (g). An administrative law judge
28 under section 212 of the act of April 12, 1951 (P.L.90, No.21),
29 known as the Liquor Code, may impose the penalties under
30 subsection (d) following the issuance of a citation by the

1 bureau.

2 (2) The Bureau of Liquor Control Enforcement shall have no
3 jurisdiction to enforce the provisions of this act on any
4 special occasion permit holder under section 408.4 of the act of
5 April 12, 1951 (P.L.90, No.21), known as the Liquor Code. The
6 Bureau of Liquor Control Enforcement shall retain all powers and
7 duties to enforce the provisions of the Liquor Code on a special
8 occasion permit holder.

9 * * *

10 Section 9. The provisions of 61 Pa. Code §§ 901.463(4)
11 (relating to raffle records), 901.464(9) (relating to punchboard
12 and pull-tab records), 901.464a(9) (relating to daily and weekly
13 drawing records), 901.466(1) (relating to prize records) and
14 901.733(f) (relating to control of prizes) are abrogated.

15 Section 10. This act shall take effect immediately.