
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 772 Session of
2013

INTRODUCED BY TEPLITZ, STACK, KASUNIC, HUGHES, FONTANA,
RAFFERTY, COSTA, WASHINGTON, TARTAGLIONE, SOLOBAY, FARNESE
AND FERLO, APRIL 3, 2013

REFERRED TO FINANCE, APRIL 3, 2013

AN ACT

1 Amending the act of August 26, 1971 (P.L.351, No.91), entitled
2 "An act providing for a State Lottery and administration
3 thereof; authorizing the creation of a State Lottery
4 Commission; prescribing its powers and duties; disposition of
5 funds; violations and penalties therefor; exemption of prizes
6 from State and local taxation and making an appropriation,"
7 further providing for definitions; and providing for
8 political influence, for financial and employment interests
9 and for applicability of Public Official and Employee Ethics
10 Act.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 302 of the act of August 26, 1971
14 (P.L.351, No.91), known as the State Lottery Law, is amended by
15 adding definitions to read:

16 Section 302. Definitions.

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

20 "Affiliate," "affiliate of" or "person affiliated with." A
21 person that directly or indirectly, through one or more

1 intermediaries, controls, is controlled by or is under common
2 control with a specified person.

3 "Contribution." A payment, gift, subscription, assessment,
4 contract, payment for services, dues, loan, forbearance, advance
5 or deposit of money or a valuable thing made to a candidate or
6 political committee for the purpose of influencing an election
7 in this Commonwealth or for paying debts incurred by or for a
8 candidate or committee before or after an election. The term
9 includes:

10 (1) the purchase of a ticket for an event, including a
11 dinner, luncheon, rally or other fundraising event;

12 (2) the granting of a discount or rebate that is:

13 (i) not available to the general public; or

14 (ii) not extended on an equal basis to the
15 candidates for an office by a television, radio station
16 or newspaper;

17 (3) a payment provided for the benefit of a candidate,
18 including a payment for the services of a person serving as
19 an agent of a candidate or committee by a person other than
20 the candidate or committee or person whose expenditures the
21 candidate or committee must report;

22 (4) a receipt or use of anything of value received by a
23 political committee from another political committee; and

24 (5) a return on an investment by a political committee.

25 "Controlling interest." Either of the following:

26 (1) For a publicly traded domestic or foreign
27 corporation, the term is:

28 (i) an interest in a legal entity, if a person's
29 sole voting rights under State law or corporate articles
30 or bylaws entitle the person to elect or appoint one or

1 more of the members of the board of directors or other
2 governing board or the ownership; or

3 (ii) a beneficial holding of 5% or more of the
4 securities of the publicly traded corporation,
5 partnership, limited liability company or other form of
6 publicly traded legal entity, unless the presumption of
7 control or ability to elect is rebutted by clear and
8 convincing evidence; or

9 (2) for a privately held domestic or foreign
10 corporation, partnership, limited liability company or other
11 form of privately held legal entity, the term is the holding
12 of a security in the legal entity unless the presumption of
13 control is rebutted by clear and convincing evidence.

14 * * *

15 "Executive-level public employee."

16 (1) A deputy secretary of the Commonwealth.

17 (2) The executive staff of the Governor's Office.

18 "Financial interest." Owning or holding, or being deemed to
19 hold, debt or equity securities or other ownership interest or
20 profits interest. A financial interest does not include a debt
21 or equity security, or other ownership interest or profit
22 interest that is held or deemed to be held in the following:

23 (1) a blind trust over which the prohibited individual
24 may not exercise managerial control or receive income during
25 the tenure of office and the period under section 317(a). The
26 provisions of this paragraph apply only to a blind trust
27 established prior to the effective date of this paragraph;

28 (2) a security that is held in a pension plan, profit-
29 sharing plan, individual retirement account, tax-sheltered
30 annuity, a plan established under section 457 of the Internal

1 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 457) or
2 a successor provision deferred compensation plan whether
3 qualified or not qualified under the Internal Revenue Code of
4 1986 or a successor provision or other retirement plan that:

5 (i) is not self-directed by the individual; and

6 (ii) is advised by an independent investment adviser
7 who has sole authority to make investment decisions with
8 respect to contributions made by the individual to these
9 plans;

10 (3) a tuition account plan organized and operated under
11 section 529 of the Internal Revenue Code of 1986 that is not
12 self-directed by the individual; or

13 (4) a mutual fund where the interest owned by the mutual
14 fund in a licensed entity does not constitute a controlling
15 interest.

16 "Holding company." A person, other than an individual, that,
17 directly or indirectly, owns or has the power or right to
18 control or vote a significant part of the outstanding voting
19 securities of a corporation or other form of business
20 organization. If it does so through an interest in a subsidiary
21 or successive subsidiaries, a holding company indirectly has,
22 holds or owns the power, right or security.

23 "Immediate family." A spouse, minor child or unemancipated
24 child.

25 "Intermediary." A person, other than an individual, that is:

26 (1) a holding company with respect to a corporation or
27 other form of business organization that holds or applies for
28 a license under this part; and

29 (2) a subsidiary regarding a holding company.

30 * * *

1 "Management-level employee." An individual who is:

2 (1) employed in a director or department head capacity;
3 and

4 (2) empowered to make discretionary decisions that
5 relate to the operation and administration of the lottery by
6 the private manager and other positions not otherwise
7 designated or defined under this act that the Department of
8 State shall determine based on detailed analyses of job
9 descriptions submitted by the private manager to the
10 Department of State.

11 "Party officer." Any of the following:

- 12 (1) a member of a national committee;
13 (2) a chairman, vice chairman, secretary, treasurer or
14 counsel of a State committee; or
15 (3) a member of the executive committee of a State
16 committee.

17 "Person." A natural person, corporation, foundation,
18 organization, business trust, estate, limited liability company,
19 licensed corporation, trust, partnership, limited liability
20 partnership, association or another form of legal business
21 entity.

22 "Political committee." A committee, club, association or
23 other group of persons that receives contributions or makes
24 expenditures.

25 "Principal." Any of the following:

- 26 (1) an officer;
27 (2) a director;
28 (3) a person who directly holds a beneficial interest in
29 or ownership of the securities of the private manager;
30 (4) a person who has:

1 (i) a controlling interest in the private manager;

2 or

3 (ii) the ability to elect a majority of the board of

4 directors of a private manager or to otherwise control a

5 private manager; or

6 (5) other person or employee of a private manager deemed

7 to be a principal by the Department of State.

8 "Private manager." A person that enters into a contract with

9 the Commonwealth to provide operational services for the lottery

10 for a term of years.

11 "Public official." The term includes the following:

12 (1) The Governor, Lieutenant Governor, member of the

13 Governor's cabinet, Treasurer, Auditor General and Attorney

14 General.

15 (2) A member of the Senate or House of Representatives.

16 * * *

17 "Subsidiary." A person other than an individual. The term

18 includes:

19 (1) a corporation with a significant part of its

20 outstanding equity securities owned, subject to a power or

21 right of control or held with power to vote by a holding

22 company or an intermediary company;

23 (2) a significant interest in a person, other than an

24 individual, that is owned, subject to a power or right of

25 control or held with power to vote by a holding company or an

26 intermediary company; or

27 (3) a person deemed a subsidiary by the Department of

28 State.

29 Section 2. The act is amended by adding sections to read:

30 Section 316. Political influence.

1 (a) Legislative intent.--The General Assembly recognizes the
2 following public policy purposes and declares that the following
3 objectives of the Commonwealth are served by this section:

4 (1) The General Assembly has a compelling interest in
5 protecting the integrity of both the electoral process and
6 the legislative process by preventing corruption and the
7 appearance of corruption that may arise through permitting
8 political campaign contributions by certain persons
9 associated with a business entity operating the lottery under
10 a private management agreement executed pursuant to this act.

11 (2) Banning all types of political campaign
12 contributions by certain persons associated with a business
13 entity operating the lottery under a private management
14 agreement executed pursuant to this act is necessary to
15 prevent corruption and the appearance of corruption that may
16 arise when political campaign contributions and the
17 administration and operation of the lottery authorized by
18 this act are intermingled.

19 (b) Contribution restriction.--The following persons shall
20 be prohibited from contributing money or an in-kind contribution
21 to a candidate for nomination or election to a public office in
22 this Commonwealth or to a political party committee or other
23 political committee in this Commonwealth or to a group,
24 committee or association organized in support of a candidate,
25 political party committee or other political committee in this
26 Commonwealth:

27 (1) A principal or management-level employee of the
28 private manager.

29 (2) An affiliate, intermediary, subsidiary or holding
30 company of the private manager.

1 (3) A principal or management-level employee of an
2 affiliate, intermediary, subsidiary or holding company of the
3 private manager.

4 (4) A person who holds or operates a state lottery
5 through a private management agreement or similar contract in
6 another jurisdiction and the affiliates, intermediaries,
7 subsidiaries, holding companies, principals or management-
8 level employees thereof.

9 (c) Contribution prohibition.--An individual that is
10 prohibited from making a political contribution under subsection
11 (b) may not make a political contribution of money or an in-kind
12 contribution to an association or organization, including a
13 nonprofit organization, that has been solicited by or knowing
14 that the contribution or a portion thereof will be contributed
15 to:

16 (1) the elected official;

17 (2) executive-level public employee; or

18 (3) candidate for nomination or election to a public
19 office in this Commonwealth.

20 (d) Annual certification.--The chief executive officer or
21 other appropriate individual of a private manager shall annually
22 certify under oath to the Department of Revenue and the
23 Department of State that the private manager:

24 (1) developed and implemented internal safeguards and
25 policies intended to prevent a violation of this section; and

26 (2) conducted a good faith investigation that did not
27 reveal a violation of this section during the past year.

28 (e) Penalties.--

29 (1) The first violation of this section by a licensed
30 gaming entity or a person that holds a controlling interest

1 in the gaming entity or a subsidiary company thereof or an
2 officer, director or management-level employee of the
3 licensee shall be punishable by a fine equal to three times
4 the amount or value of the contribution made or \$25,000,
5 whichever is greater.

6 (2) A second violation of this section within five years
7 of the first violation shall be punishable by a fine equal to
8 five times the amount or value of the contribution made or
9 \$50,000, whichever is greater.

10 (3) A third or subsequent violation of this section
11 within five years of the second violation shall be punishable
12 by a fine equal to ten times the amount or value of the
13 contribution made or \$100,000, whichever is greater.

14 (4) In addition to a fine imposed under this subsection,
15 an individual who makes a contribution in violation of this
16 section commits a misdemeanor of the third degree.

17 Section 317. Financial and employment interests.

18 (a) Financial interests.--Except as may be provided for the
19 judiciary by rule or order of the Pennsylvania Supreme Court,
20 the secretary, director, an executive-level public employee,
21 public official or party officer or an immediate family member
22 thereof, may not intentionally or knowingly hold a financial
23 interest in a private manager or a holding company, affiliate,
24 intermediary or subsidiary thereof while the individual is an
25 executive-level public employee, public official or party
26 officer and for one year following the termination of the
27 individual's status as an executive-level public employee,
28 public official or party officer.

29 (b) Employment.--Except as may be provided by rule or order
30 of the Pennsylvania Supreme Court, a secretary, director,

1 executive-level public employee, public official or party
2 officer, or an immediate family member thereof, may be employed
3 by a private manager or by a holding company, affiliate,
4 intermediary or subsidiary thereof while the individual is
5 serving or employed as secretary, director, an executive-level
6 public employee, public official or party officer and for one
7 year following termination of the individual's status as
8 secretary, director, an executive-level public employee, public
9 official or party officer.

10 (c) Grading.--An individual who violates this section
11 commits a misdemeanor and shall, upon conviction, be sentenced
12 to pay a fine of not more than \$1,000 or to imprisonment for not
13 more than one year, or both.

14 (d) Divestiture.--An executive-level public employee, public
15 official or party officer, or an immediate family member
16 thereof, who holds a financial interest prohibited by this
17 section shall divest the financial interest within three months
18 of the effective date of the restrictions set forth in
19 subsection (a), as applicable. The State Ethics Commission may,
20 for good cause, extend the time period under this subsection.
21 Section 318. Applicability of Public Official and Employee
22 Ethics Act.

23 The provisions of 65 Pa.C.S. § 1103(g) (relating to
24 restricted activities) do not apply to a lottery employee who is
25 offered or obtains employment with a private manager under terms
26 of a contract between a private manager and the Commonwealth to
27 provide operational services for the lottery.

28 Section 3. This act shall take effect in 60 days.