
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 901 Session of
2015

INTRODUCED BY HARHAI, THOMAS, COHEN, YOUNGBLOOD, HARKINS,
DeLUCA, KORTZ AND MAHONEY, APRIL 6, 2015

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, APRIL 6, 2015

AN ACT

1 Providing for the licensing and regulation of video gaming;
2 prescribing powers and duties of the Pennsylvania State
3 Police and the Department of Revenue; establishing the State
4 Video Gaming Fund; and prescribing penalties.

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

10 Section 1. Short title.

11 This act shall be known and may be cited as the Video Gaming
12 Act.

13 Section 2. Scope of act.

14 This act allows for the licensing and regulation of video
15 gaming in this Commonwealth.

16 Section 3. Definitions.

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

20 "Coin-operated amusement machine." A machine that requires
21 the insertion of a coin, currency or tokens to play or activate
22 a game, the outcome of which is primarily determined by the
23 skill of the player. The term does not include a video lottery
24 terminal.

25 "Department." The Department of Revenue of the Commonwealth.

26 "Fund." The State Video Gaming Fund established by this act.

27 "Gaming machine." A device or machine that has the outcome
28 of play primarily determined by chance. The term includes an
29 antique slot machine under 18 Pa.C.S. § 5513(c) (relating to
30 gambling devices, gambling, etc.) when used for profit. The term

1 shall not include any of the following:

2 (1) A coin-operated amusement machine.

3 (2) A video lottery terminal that has all of its seals
4 or identification plates.

5 (3) Slot machines as defined under 4 Pa.C.S. § 1103
6 (relating to definitions).

7 (4) A game of chance under the act of December 19, 1988
8 (P.L.1262, No.156), known as the Local Option Small Games of
9 Chance Act.

10 (5) Lottery terminals used under the act of August 26,
11 1971 (P.L.351, No.91), known as the State Lottery Law.

12 "Licensed establishment." A restaurant, bar, tavern, hotel
13 or club that has a valid liquor or malt or brewed beverage
14 license under Article IV of the act of April 12, 1951 (P.L.90,
15 No.21), known as the Liquor Code.

16 "Manufacturer." An individual, partnership, association or
17 corporation that:

18 (1) Is licensed by the Department of Revenue.

19 (2) Manufactures or assembles video gaming machines.

20 "Net profits." All money put into a video gaming machine
21 minus the cash awards paid out to players.

22 "Operator." An individual, partnership, association or
23 corporation licensed by the Department of Revenue to buy, sell,
24 own, maintain, service or distribute video gaming machines for
25 placement in licensed establishments. The term does not include
26 a manufacturer.

27 "Secretary." The Secretary of Revenue of the Commonwealth.

28 "Service technician." An individual holding a service
29 technician's license issued by the Department of Revenue
30 allowing the individual to service, maintain and repair video

1 gaming machines.

2 "State Lottery." The lottery established and operated under
3 the act of August 26, 1971 (P.L.351, No.91), known as the State
4 Lottery Law.

5 "Video gaming machine." A device or machine that upon
6 insertion of a coin or currency will play or simulate the play
7 of a video poker, keno, blackjack or any other game authorized
8 by the Department of Revenue that utilizes a video display and
9 microprocessors and in which by the skill of the player or by
10 chance the player may receive free games or credits that may be
11 redeemed for cash. The term shall not include any of the
12 following:

13 (1) Small games of chance as authorized under the act of
14 December 19, 1988 (P.L.1262, No.156), known as the Local
15 Option Small Games of Chance Act.

16 (2) Lottery games of the Pennsylvania State Lottery as
17 authorized under the act of August 26, 1971 (P.L.351, No.91),
18 known as the State Lottery Law.

19 (3) Bingo as authorized under the act of July 10, 1981
20 (P.L.214, No.67), known as the Bingo Law.

21 (4) Slot machines or table games as authorized under 4
22 Pa.C.S. (relating to amusements).

23 Section 4. Video gaming.

24 (a) Duty of department.--The department shall regulate and
25 adopt standards for video gaming activities and provide for
26 video gaming at licensed establishments as authorized under this
27 act.

28 (b) Prohibition.--With the exception of tickets indicating
29 credits won, which are redeemable for cash, no machine may
30 directly dispense coins, cash, tokens or anything else of value.

1 Section 5. Licensing of manufacturers, operators and service
2 technicians.

3 (a) Eligibility.--A person may apply to the secretary for a
4 manufacturer's license, an operator's license or a service
5 technician's license under this section on a form prescribed by
6 the department.

7 (b) Requirements.--The following shall apply to licenses
8 issued under this section:

9 (1) All licenses shall be issued at the discretion of
10 the secretary. The secretary shall make a determination
11 within 60 days of receiving all required information from the
12 applicant. Nothing in this act is intended or shall be
13 construed to create an entitlement to a license by any
14 person.

15 (2) The secretary may refuse to issue a license under
16 this section or may suspend or revoke a license if any of the
17 following apply:

18 (i) The applicant or the applicant's business is not
19 in compliance with all laws of this Commonwealth.

20 (ii) The secretary finds that the experience,
21 character and general fitness of the applicant and any
22 officers, directors, stockholders and partners of the
23 applicant and any other person that shares or will share
24 in the profits or participates or will participate in the
25 management of the affairs of the applicant will not be
26 consistent with the public interest.

27 (iii) The applicant or an officer, director,
28 stockholder or partner of the applicant or any other
29 person that shares or will share in the profits or
30 participates or will participate in the management of the

1 affairs of the applicant has done any of the following:

2 (A) Failed to comply with the terms of a license
3 issued under this section.

4 (B) Violated any rule, regulation or order of
5 the department.

6 (iv) A person other than the applicant shares or
7 will share in the profits of the applicant other than as
8 a bona fide owner of a financial interest in the
9 applicant or participates or will participate in the
10 management of the affairs of the applicant.

11 (3) The secretary may issue a temporary license upon the
12 terms and conditions as the secretary deems necessary,
13 desirable or proper to effectuate the provisions of this act.

14 (4) The secretary shall refuse to grant or renew a
15 license issued under this section and may revoke a license if
16 the applicant is not compliant with the tax laws of this
17 Commonwealth.

18 (c) Term and application fees.--

19 (1) A license issued under this section shall be valid
20 for a period of three years from the date of issuance and may
21 be renewed for three-year terms upon application of the
22 applicant.

23 (2) An applicant for a license under this section must
24 pay a nonrefundable initial application fee of \$500 and a
25 nonrefundable renewal application fee of \$100.

26 (d) Suitability.--In addition to any other specifications
27 and qualifications established by the department, the
28 Pennsylvania State Police shall conduct a background
29 investigation of any applicant under this section, as follows:

30 (1) The applicant shall be required to consent to a

1 background investigation of the applicant, its owners,
2 officers, directors, stockholders and partners and any other
3 person that shares or will share in the profits or
4 participates or will participate in the management of the
5 affairs of the applicant and shall provide any and all
6 information requested by the Pennsylvania State Police and
7 consent to a release to obtain any and all information,
8 including fingerprints, necessary for the completion of the
9 background investigation.

10 (2) The background investigation shall include a
11 security, criminal, credit and suitability investigation by
12 the Pennsylvania State Police, which shall include records of
13 criminal arrests and convictions, no matter where occurring,
14 including Federal criminal history record information. None
15 of the information obtained by the Pennsylvania State Police
16 under this subsection shall be disclosed publicly nor be
17 subject to disclosure under the act of February 14, 2008
18 (P.L.6, No.3), known as the Right-to-Know Law.

19 (3) Each application for a license under this section
20 must be accompanied by a nonrefundable fee in such amount as
21 established by the Pennsylvania State Police for the cost of
22 each individual requiring a background investigation. The
23 reasonable and necessary costs and expenses incurred in any
24 background investigation shall be reimbursed to the
25 Pennsylvania State Police by the applicant.

26 (4) Upon completion of the background investigation, the
27 Pennsylvania State Police shall determine whether the
28 experience, character and general fitness of the applicant
29 and its owners, officers, directors, stockholders and
30 partners, and any other person that shares or will share in

1 the profits or participates or will participate in the
2 management of the affairs of the applicant, are such that the
3 participation of the applicant in the operations of video
4 gaming under this act will be consistent with the public
5 interest. The Pennsylvania State Police shall notify the
6 department of its determination and may share information
7 with the department to the extent permitted by Federal and
8 State law as determined by the Pennsylvania State Police.

9 (5) In determining whether participation by an applicant
10 is consistent with the public interest, the Pennsylvania
11 State Police's standards shall include whether the applicant
12 and its owners, officers, directors, stockholders and
13 partners, and any other person that shares or will share in
14 the profits or participates or will participate in the
15 management of the affairs of the applicant:

16 (i) Have been convicted of a crime involving moral
17 turpitude.

18 (ii) Have been convicted of illegal gambling
19 activities, including with respect to lotteries, gambling
20 devices, gambling or pool selling under 18 Pa.C.S. §§
21 5512 (relating to lotteries, etc.), 5513 (relating to
22 gambling devices, gambling, etc.) or 5514 (relating to
23 pool selling and bookmaking) or the similar laws of
24 another state.

25 (iii) Have been convicted of any fraud or
26 misrepresentation in any context.

27 (6) The department may not issue a license to any
28 applicant whose participation is deemed by the Pennsylvania
29 State Police to be inconsistent with the public interest.
30 Determination of suitability by the Pennsylvania State Police

1 shall not entitle an applicant to receive a license under
2 this act.

3 (7) A finding of suitability is a privilege. No
4 applicant has a vested or property right in being found
5 suitable for licensure under this section. A determination of
6 suitability or unsuitability shall not be subject to
7 challenge or appeal.

8 (8) Upon any change in the owners, officers, directors,
9 stockholders and partners, or any other person that shares or
10 will share in the profits or participates or will participate
11 in the management of the affairs of an applicant, the
12 applicant shall consent to an updated background
13 investigation and updated finding of suitability by the
14 Pennsylvania State Police under this subsection. The
15 department shall revoke the license issued to an applicant in
16 the case of a finding that the applicant is no longer
17 suitable under this paragraph.

18 (e) Employees.--

19 (1) An employee of an applicant who has or will have
20 access to video gaming machines must receive and maintain a
21 finding of suitability based on a background check from the
22 Pennsylvania State Police consistent with the provisions of
23 subsection (d).

24 (2) No employee of an applicant shall have access to
25 video gaming machines until such time as the employee has
26 received a finding of suitability from the Pennsylvania State
27 Police.

28 Section 6. Licensed establishment license.

29 The department shall issue a license to any licensed
30 establishment upon showing that its liquor or retail dispenser

1 license is valid and is in good standing with the Pennsylvania
2 Liquor Control Board. The annual fee for a licensed
3 establishment shall be \$500 per video gaming machine.

4 Section 7. Limitations on licensed establishments.

5 (a) General rule.--Licensed establishments shall be subject
6 to the following limitations:

7 (1) No licensed establishment may have more than 10
8 video gaming machines.

9 (2) No applicant may hold more than one type of license
10 authorized by this act.

11 (3) Each licensee must pay its license fee. Payment of
12 the fee by a person, partnership or corporation other than
13 the licensee is prohibited.

14 (b) Unlawful acts.--

15 (1) No licensed establishment shall permit:

16 (i) An individual under 21 years of age to operate
17 or attempt to operate a video gaming machine.

18 (ii) An individual under 21 years of age to redeem
19 or attempt to redeem credits or tickets won or to receive
20 or attempt to receive cash or prizes from a video gaming
21 machine.

22 (iii) A visibly intoxicated person to play a video
23 gaming machine.

24 (iv) An individual to tamper with the connection of
25 a video gaming machine to the central computer.

26 (2) In addition to any other penalties provided by law,
27 a person who violates paragraph (1)(i), (ii) or (iii) commits
28 a summary offense.

29 (c) Seizure, forfeiture and destruction of gaming
30 machines.--

1 (1) Gaming machines shall be considered to be per se
2 illegal. Gaming machines and their proceeds may be seized
3 upon view as illegal contraband by agents of the department
4 and any other law enforcement agency.

5 (2) The owner of a gaming machine shall have no right to
6 compensation for the seizure and destruction of a gaming
7 machine or the proceeds of a gaming machine.

8 (d) Penalties.--

9 (1) In the case of a gaming machine seized from a
10 licensed establishment, for a first violation, a penalty of
11 not less than \$1,000 nor more than \$5,000 and a suspension of
12 the licensed establishment owner's liquor license for not
13 less than seven consecutive days and, for each subsequent
14 violation, a penalty of \$15,000 and a suspension of the
15 liquor license for not less than 14 consecutive days.

16 (2) In the case of a gaming machine seized from a place
17 of business other than a licensed establishment, for a first
18 violation, a penalty of not less than \$1,000 nor more than
19 \$5,000 against the owner of the business from which the
20 gaming machine was seized and, for each subsequent violation,
21 a penalty of \$15,000.

22 Section 8. Central computer system.

23 The department shall utilize the central computer system
24 utilized by the State Lottery. All licensed video gaming
25 machines shall be linked to the central computer system at the
26 State Lottery.

27 Section 9. Video gaming machine prototype.

28 (a) General rule.--The department shall develop a prototype
29 video gaming machine that includes hardware and software
30 specifications. The specifications shall include the following

1 provisions:

2 (1) A video gaming machine shall interact with the
3 central computer system.

4 (2) Nonremovable identification plates shall appear on
5 the exterior of the video gaming machine containing the name
6 of the manufacturer and the serial number and model number of
7 the video gaming machine.

8 (3) Rules of play shall be displayed on the video gaming
9 machine face or screen as promulgated by regulation of the
10 department.

11 (4) A video gaming machine may not directly dispense
12 coins, cash, tokens or any other article of exchange or value
13 except for tickets. The tickets shall be dispensed by
14 pressing the ticket-dispensing button on the machine at the
15 end of one's turn or play. The ticket shall indicate the
16 total amount of credits and the cash award and the player
17 must turn in this ticket to the appropriate person at the
18 licensed establishment to receive the cash award. The cost of
19 the credit shall be 25¢ and the number of credits played per
20 game shall not exceed 10.

21 (5) No cash award for any individual game may exceed
22 \$1,000.

23 (6) A video gaming machine shall be designed and
24 manufactured with total accountability to include gross
25 proceeds, net profits, winning percentages and any other
26 information the department requires.

27 (7) A video gaming machine shall pay out a minimum of
28 85% of the amount wagered.

29 (8) A video gaming machine shall contain a prominent
30 sign on the front of the machine with the following

statement:

If you or someone you know has a gambling problem,
help is available. Call (Toll-free telephone number
provided by the State).

(b) Agreement with Pennsylvania Gaming Control Board.--The
department may enter into an agreement with the Pennsylvania
Gaming Control Board to develop and verify specifications for
video gaming machines.

Section 10. Fees.

(a) Operator license fee.--The annual fee for an operator
license shall be \$25,000 for the first 50 video gaming machines
and an additional \$500 per video gaming machine license in
excess of 50. An operator license permits the operator to sell
video gaming machines to another licensed operator.

(b) Manufacturer license fee.--The annual fee for a
manufacturer license shall be \$10,000.

(c) Service technician license fee.--The annual fee for a
service technician license shall be \$100.

(d) Deposit of fees.--All license fees shall be deposited
into the fund.

Section 11. Unlawful use by minors.

(a) Prohibition.--

(1) No individual under 21 years of age may use or play
a video gaming machine.

(2) An individual who violates this subsection commits a
summary offense.

(b) Licensees.--

(1) A licensed establishment may not, regardless of
knowledge or intent, permit an individual under 21 years of
age to play or use a video gaming machine.

(2) A licensed establishment that violates this subsection commits a misdemeanor of the second degree.

Section 12. Inducements prohibited.

(a) General rule.--No video gaming operator may offer or give any type of inducement or incentive to a licensed establishment to secure a machine placement agreement.

(b) Definition.--As used in this section, the term "inducement" or "incentive" means consideration from a licensed machine vendor to a licensed establishment owner as an enticement to solicit or maintain the licensed establishment owner's business. The term includes cash, gifts, loans and prepayment of commissions.

Section 13. Multiple types of licenses prohibited.

(a) Manufacturer restriction.--No manufacturer may be licensed as an operator or own, manage or control a licensed establishment. A manufacturer may be licensed only to sell to licensed operators.

(b) Operator restriction.--

(1) No licensed operator may:

- (i) be licensed as a manufacturer; or
- (ii) own, manage or control a licensed establishment.

(2) A licensed operator shall be licensed only to contract with licensed establishments.

(3) Nothing in this subsection shall be construed to prohibit a licensed operator from selling used equipment to another licensed operator.

(c) Establishment owner restriction.--No owner of a licensed establishment may be licensed as a manufacturer or operator. An owner of a licensed establishment may only contract with an

1 operator or service technician to place and service equipment.

2 Section 14. Illegal activities.

3 No person may sell, distribute, service, own, operate or
4 place on location a video gaming machine unless the person is
5 licensed under this act and is in compliance with all
6 requirements of this act.

7 Section 15. Distribution of net profits.

8 Net profits shall be calculated by subtracting cash awards
9 from the total consideration played on the machine. The net
10 profits from each video gaming machine shall be distributed in
11 the following manner:

12 (1) Thirty percent to the licensed establishment.

13 (2) Thirty percent to the licensed operator.

14 (3) Forty percent to the fund.

15 Section 16. State Video Gaming Fund.

16 (a) Establishment.--The State Video Gaming Fund is
17 established in the State Treasury.

18 (b) Deposit of fees.--Fees under section 10(d) and the
19 portion of net profits under section 15(3) shall be deposited
20 into the fund.

21 (c) Deductions.--

22 (1) The department shall determine costs, expenses or
23 payments to be deducted from the fund to the appropriate
24 agency necessary to administer this act.

25 (2) The deductions made under this subsection shall not
26 exceed 10% of the total funds available in the fund.

27 (3) The following costs and expenses shall be paid from
28 the fund upon appropriation by the General Assembly:

29 (i) The costs and expenses to be incurred by the
30 department in administering this act based upon a budget

submitted by the department under subsection (d).

(ii) The costs and expenses to be incurred by the Pennsylvania State Police and the Office of Attorney General and not otherwise reimbursable under this act in administering, regulating and enforcing this act based upon a budget submitted by the department under subsection (d).

(iii) The costs and expenses to be incurred by the Pennsylvania Gaming Control Board, if an agreement is entered into with the department under section 9(b), in carrying out its responsibilities under this act based upon a budget submitted by the department under subsection (d).

(d) Itemized budget reporting.--

(1) The department, the Pennsylvania Gaming Control Board, the Pennsylvania State Police and the Office of Attorney General shall prepare and annually submit to the chairman of the Appropriations Committee of the Senate and the chairman of the Appropriations Committee of the House of Representatives an itemized budget consisting of amounts to be appropriated out of the fund.

(2) As soon as practicable after receiving copies of the itemized budgets submitted under paragraph (1), the department shall prepare and submit to the chairman of the Appropriations Committee of the Senate and the chairman of the Appropriations Committee of the House of Representatives analyses of and make recommendations regarding the itemized budgets.

(3) After determining the appropriate funding based on paragraphs (1) and (2), the funds shall be appropriated by

the General Assembly to the appropriate department or agency.

(e) Funding for compulsive gambling programs.--The department shall allocate at least \$500,000 annually for the purpose of treating compulsive gambling in this Commonwealth. This allocation shall be appropriated out of the fund.

(f) Interfund transfers.--Monthly, the State Treasurer shall transfer the remaining balance in the fund which is not allocated in subsections (c) or (e) to the State Lottery Fund established in section 311 under the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law.

Section 17. Preemption of local taxes and license fees.

(a) General rule.--Video gaming machines shall be exempt from taxes levied under the following:

(1) The act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act.

(2) The act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

(3) 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government).

(4) Any statute that confers taxing authority to a political subdivision.

(b) Exemption and limitation.--

(1) Video gaming machines are exempt from local licensing fees.

(2) Local licensing fees imposed on all other coin-operated amusement machines shall not exceed \$150.

Section 18. Exemption from State gaming laws.

Video gaming machines authorized under this act and their use as authorized under this chapter are exempt from 18 Pa.C.S. § 5513 (relating to gambling devices, gambling, etc.).

1 Section 19. Exemption from Federal regulation.

2 The General Assembly declares that the Commonwealth is exempt
3 from section 2 of the Gambling Devices Transportation Act (64
4 Stat. 1134, 15 U.S.C. § 1172 et seq.). Shipments of approved
5 video gaming machines into this Commonwealth in compliance with
6 sections 3 and 4 of the Gambling Devices Transportation Act (64
7 Stat. 1134, 15 U.S.C. §§ 1173 and 1174) shall be deemed legal
8 shipments into this Commonwealth.

9 Section 20. Effective date.

10 This act shall take effect in 60 days.