

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1711 Session of
2017

INTRODUCED BY NEILSON, BIZZARRO, DUNBAR, MILLARD, CALTAGIRONE,
DONATUCCI AND D. COSTA, AUGUST 16, 2017

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, AUGUST 16, 2017

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; in games of
10 chance, further providing for distributor licenses, for major
11 league sports drawing, for registration of manufacturers, for
12 regulations of department and for licensing of eligible
13 organizations and providing for authorized small games; in
14 club licensees, further providing for club licensee, for
15 distribution of proceeds and for records; in enforcement,
16 further providing for revocation of licenses and for
17 enforcement; and providing for powers and duties of the
18 Pennsylvania Gaming Control Board.

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

21 Section 1. The definitions of "games of chance" and "passive
22 selection device" in section 103 of the act of December 19, 1988
23 (P.L.1262, No.156), known as the Local Option Small Games of
24 Chance Act, are amended and the section is amended by adding
25 definitions to read:

26 Section 103. Definitions.

1 The following words and phrases when used in this act shall,
2 except as provided under section 902, have the meanings given to
3 them in this section unless the context clearly indicates
4 otherwise:

5 * * *

6 "Authorized small game." A small gambling game authorized by
7 the board under section 309.

8 * * *

9 "Board." The Pennsylvania Gaming Control Board.

10 * * *

11 "Games of chance." Punchboards, daily drawings, weekly
12 drawings, 50/50 drawings, raffles, tavern games, pools, race
13 night games, authorized small games and pull-tabs, as defined in
14 this act, provided that no such game shall be played by or with
15 the assistance of any mechanical or electrical devices or media
16 other than a dispensing machine or passive selection device and
17 further provided that the particular chance taken by any person
18 in any such game shall not be made contingent upon any other
19 occurrence or the winning of any other contest, but shall be
20 determined solely at the discretion of the purchaser. This
21 definition shall not be construed to authorize any other form of
22 gambling currently prohibited under any provision of 18 Pa.C.S.
23 (relating to crimes and offenses) or authorized under 4 Pa.C.S.
24 (relating to amusements). Nothing in this act shall be construed
25 to authorize games commonly known as "slot machines" or "video
26 poker" or other games regulated by the Pennsylvania Gaming
27 Control Board under 4 Pa.C.S.

28 * * *

29 "Passive selection device." A device which is used to hold
30 or denote the universe of possible winning numbers or entrants

1 in a daily drawing [or], raffle or authorized small game. Such a
2 device may not have the capability of being utilized to conduct
3 or aid in the conducting of unauthorized or illegal forms of
4 gambling.

5 * * *

6 Section 2. Sections 304, 304.1(h), 305(a), 306 and 307(d)
7 (6), (e) introductory paragraph and (f) of the act are amended
8 to read:

9 Section 304. Distributor licenses.

10 (a) License required.--No person shall sell, offer for sale
11 or furnish games of chance to eligible organizations licensed
12 under this chapter or licensed under Chapter 9 unless such
13 person shall have obtained a distributor license as provided in
14 this section.

15 (b) Application.--An applicant for the grant or renewal of a
16 distributor license issued pursuant to this section shall
17 provide to the [department] board, upon the form prescribed, all
18 of the following:

19 (1) The applicant's State sales tax number.

20 (2) The applicant's State corporate tax number.

21 (3) The applicant's State employer withholding tax
22 number.

23 (4) The applicant's unemployment compensation account
24 number.

25 (5) A statement that:

26 (i) all State tax reports have been filed and all
27 State taxes paid;

28 (ii) all State taxes are subject to a timely
29 administrative or judicial appeal; or

30 (iii) all State taxes are subject to a duly approved

deferred payment plan.

(6) The names and business addresses of all owners, officers, directors, partners and sales personnel.

(c) Waiver of confidentiality.--An applicant for the grant or renewal of a distributor license issued pursuant to this section shall, by the filing of an application insofar as it relates to the [department] board, waive any confidentiality with respect to State tax information in the possession of the department, the Office of Attorney General or the Department of Labor and Industry regarding that applicant, regardless of the source of that information, and shall consent to the providing of that information to the [department] board by the Office of Attorney General, department or the Department of Labor and Industry.

(c.1) Background.--The [department] board shall conduct and annually update a criminal history record check on each individual listed under subsection (b) (6).

(d) Review of tax status.--Upon receipt of any application for the grant or renewal of a distributor license issued pursuant to this section, the [department] board shall review the State tax status of the applicant. The [department] board shall request State tax information regarding the applicant from the Office of Attorney General, department or the Department of Labor and Industry and that information shall be provided.

(e) Limitation on approval.--The [department] board shall not approve any application for the grant or renewal of a distributor license issued pursuant to this section where the applicant has failed to:

(1) provide any of the information required by subsection (b);

1 (2) file required State tax reports; or
2 (3) pay any State taxes not subject to a timely
3 administrative or judicial appeal or subject to a duly
4 authorized deferred payment plan.

5 (f) Records.--A distributor licensee shall keep such
6 records, reports and books as the [department] board shall
7 prescribe. Applicants shall be required to make such records,
8 reports and books available as required by the [department]
9 board pursuant to regulation.

10 (g) Ineligibility.--The [department] board shall not issue
11 or renew a distributor license for the sale of games of chance
12 to a person, including any corporation, firm or partnership
13 which has as an officer, director or other person in a
14 supervisory or management position, or employee eligible to make
15 sales on behalf of the distributor, who:

16 (1) has been convicted of a felony in a state or Federal
17 court within the past five years; or

18 (2) has been convicted within ten years of the date of
19 application in a state or Federal court of a violation of any
20 of the following:

21 (i) This act.

22 (ii) The act of July 10, 1981 (P.L.214, No.67),
23 known as the Bingo Law.

24 (iii) A gambling-related offense under 4 Pa.C.S.
25 (relating to amusements).

26 (iv) A gambling-related offense under 18 Pa.C.S.
27 (relating to crimes and offenses).

28 (v) A Federal or State law comparable to the
29 statutes listed under subparagraphs (i), (ii), (iii) and
30 (iv).

1 (h) License and renewal fees.--The fee for a distributor
2 license shall be \$2,000. Licenses shall be renewable on an
3 annual basis.

4 (i) Exception.--This section shall not apply to the
5 manufacture or distribution of raffle tickets, 50/50 drawings,
6 daily drawings, weekly drawings or pools.

7 Section 304.1. Major league sports drawing.

8 * * *

9 (h) Additional recordkeeping.--The [department] board may
10 require additional recordkeeping or accountability measures for
11 major league sports drawings.

12 Section 305. Registration of manufacturers.

13 (a) Registration required.--No manufacturer of games of
14 chance shall sell any games of chance to any person unless the
15 manufacturer has registered with the [department] board and has
16 been issued a certificate of registration.

17 * * *

18 Section 306. Regulations of [department] board.

19 (a) Authorization.--The [department] board shall promulgate
20 regulations to:

21 (1) Impose minimum standards and restrictions applicable
22 to games of chance manufactured for sale in this
23 Commonwealth, which may include standards and restrictions
24 which specify the maximum number of chances available to be
25 sold for any single game of chance or prize and such other
26 standards and restrictions as the [department] board deems
27 necessary for the purposes of this chapter. The [department]
28 board shall consider standards adopted by the National
29 Association of Gambling Regulatory Agencies and other
30 standards commonly accepted in the industry.

1 (2) Establish procedures by which manufacturers may
2 register and distributors of games of chance may apply for
3 licensure on forms which the [department] board shall
4 provide. Procedures shall include a requirement that
5 manufacturer and distributor applicants provide criminal
6 history record information obtained from the Pennsylvania
7 State Police under 18 Pa.C.S. § 9121(b) (relating to general
8 regulations) for each officer and manager of the
9 manufacturer's or distributor's organization and for any
10 other individual specified by the [department] board. As used
11 in this paragraph, the term "criminal history record
12 information" has the meaning given in 18 Pa.C.S. § 9102
13 (relating to definitions).

14 (3) Provide for the suspension or revocation of
15 distribution licenses or manufacturer certificates for
16 violations of this act or regulations of the [department]
17 board.

18 (3.1) Establish procedures to ensure that race night
19 games are secure, random and totally dependent upon chance.

20 (4) Carry out other provisions of this act.

21 (b) Limitation on recordkeeping requirements.--This section
22 shall not be construed to authorize the [department] board to
23 promulgate regulations providing for recordkeeping requirements
24 for licensed eligible organizations which require unreasonable
25 or unnecessary information or a repetitious listing of
26 information. The [department] board shall strive to keep such
27 recordkeeping requirements from being an undue hardship or
28 burden on licensed eligible organizations. Except as provided
29 under section 701(b), the [department] board may not require the
30 retention of records for a period in excess of two years. If an

individual prize is in excess of \$600, the record shall include the name and address of the winner. An eligible organization shall provide each winner with a receipt of the value of the prize when the prize exceeds \$600.

(c) (Reserved).

Section 307. Licensing of eligible organizations.

* * *

(d) Operation.--Each licensed eligible organization shall be prohibited from the following:

* * *

(6) Purchasing games of chance, other than raffles, 50/50 drawings, daily drawings and weekly drawings, from any person other than a registered manufacturer or licensed distributor approved by the [department] board.

* * *

(e) Application for license.--Each eligible organization shall apply to the licensing authority for a license on a form to be prescribed by the [Secretary of Revenue] board. For a club license, the application and each renewal application shall include the most recent annual report filed by the club licensee under Chapter 5. The form shall contain an affidavit to be affirmed by the executive officer or secretary of the eligible organization stating that:

* * *

(f) List of licensees.--The licensing authority, on a semiannual basis, shall send a copy of all licensees to the [department] board.

* * *

Section 3. The act is amended by adding a section to read:

Section 309. Authorized small games.

1 (a) Application.--A registered manufacturer may apply to the
2 board, on a form and in a manner as the board may prescribe, for
3 approval of an authorized small game to be offered for sale and
4 operation in accordance with this act.

5 (b) Approval.--The board shall approve an application for an
6 authorized small game for sale and operation if the game
7 complies with the following:

8 (1) The game is designed for the purpose of raising
9 funds for public interest purposes.

10 (2) The maximum entry fee or cost for an individual to
11 play the game is \$10.

12 (3) The game is not to be played by or with the
13 assistance of any mechanical or electrical devices other than
14 a dispensing machine or passive selection device.

15 (4) The game complies with the Professional and Amateur
16 Sports Protection Act (Public Law 102-559, 28 U.S.C. § 3701
17 et seq.).

18 (c) Prohibitions.--No person may offer for sale or operate
19 an authorized small game until all of the following occur:

20 (1) The board approves the application for the
21 authorized small game.

22 (2) The board promulgates regulations as required by
23 this section.

24 (d) Regulations.--The board shall promulgate regulations
25 providing for the following:

26 (1) Manufacturing standards.

27 (2) Recordkeeping requirements.

28 (3) Rules for the play and operation of the authorized
29 small game.

30 (e) Exemption from review.--In order to facilitate the

prompt approval of authorized small games, regulations
promulgated by the board under this section shall be deemed
temporary regulations, which shall not be subject to:

(1) Sections 201, 202, 203, 204 and 205 of the act of
July 31, 1968 (P.L.769, No.240), referred to as the
Commonwealth Documents Law.

(2) Sections 204(b) and 301(10) of the act of October
15, 1980 (P.L.950, No.164), known as the Commonwealth
Attorneys Act.

(3) The act of June 25, 1982 (P.L.633, No.181), known as
the Regulatory Review Act.

(f) Expiration.--The authority provided to the board to
adopt temporary regulations under subsection (e) shall expire
three years from the effective date of this subsection.
Regulations adopted after that date shall be promulgated as
provided by law.

(g) Fees.--The board shall adopt a schedule establishing
fees to be accompanied by an application under subsection (a) to
cover costs incurred by the board for the approval of an
authorized small game.

Section 4. Sections 501, 502(a.1)(2), 503, 701(a)(10) and
702(c) of the act are amended to read:

Section 501. Club licensee.

(a) Report.--

(1) Beginning in 2014, a club licensee with proceeds in
excess of \$20,000 in a calendar year shall submit annual
reports to the [department] board for the preceding 12-month
period on a form and in a manner prescribed by the
[department] board.

(2) The report under paragraph (1) must be filed under

oath or affirmation of an authorized officer of the club
licensee and shall include all of the following information:

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

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

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

(iv) Verification and itemization of amounts
distributed for public interest.

(vii) Other information or documentation required by
the [department] board.

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

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

Section 502. Distribution of proceeds.

* * *

(a.1) Amounts retained.--

* * *

(2) Amounts retained by a club licensee under subsection
(a)(2) shall be expended within one year of the end of the
calendar year in which the proceeds were obtained unless the
club licensee notifies the [department] board that funds are
being retained for a substantial public interest purchase or
project.

* * *

Section 503. Records.

A club licensee shall maintain records as required by this
act or by the [department] board, including invoices for games

1 of chance purchased. Records necessary to enforce this act or to
2 conduct random audits shall be made available to the Bureau of
3 Liquor Control Enforcement, the [department] board or any other
4 entity authorized to enforce or conduct audits under this act.

5 Section 701. Revocation of licenses.

6 (a) Grounds.--The following shall be grounds for suspension,
7 revocation or nonrenewal of a license:

8 * * *

9 (10) False or erroneous information was provided in the
10 original application or in any information provided to the
11 licensing authority or the [department] board in any report.

12 * * *

13 Section 702. Enforcement.

14 * * *

15 (c) Random audits.--The [department] board shall conduct
16 biennial random audits of 5% of all club licensees.

17 * * *

18 Section 5. The following transitional provisions apply:

19 (1) All personnel, allocations, appropriations,
20 equipment, files, records, contracts, agreements, obligations
21 and other materials which are used, employed or expended by
22 the Department of Revenue in conjunction with the functions
23 transferred by this act to the Pennsylvania Gaming Control
24 Board are hereby transferred to the Pennsylvania Gaming
25 Control Board as if these contracts, agreements and
26 obligations had been incurred or entered into by the
27 Pennsylvania Gaming Control Board in the first instance.

28 (2) The personnel, appropriations, equipment and other
29 items and material transferred by this section shall include
30 an appropriate portion of the general administrative,

1 overhead and supporting personnel, appropriations, equipment
2 and other material of the Department of Revenue.

3 (3) All personnel transferred under this section shall
4 retain any civil service employment status assigned to the
5 personnel.

6 (4) All orders, permits, regulations, decisions and
7 other actions of the Department of Revenue transferred by
8 this act shall remain in full force and effect until
9 modified, repealed, suspended, superseded or otherwise
10 changed by appropriate action of the Pennsylvania Gaming
11 Control Board.

12 Section 6. This act shall take effect as follows:

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

15 (i) This section.

16 (ii) The addition of section 309(d), (e), (f) and
17 (g) of the act.

18 (2) The remainder of this act shall take effect July 1,
19 2018.