

No. 1988-156

AN ACT

SB 75

Providing for the licensing of clubs to conduct games of chance, for the licensing of persons to distribute games of chance, for the registration of manufacturers of games of chance, and for suspensions and revocations of licenses and permits; requiring records; providing for local referendum by electorate; and prescribing penalties.

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

Section 1. Short title.

This act shall be known and may be cited as the Local Option Small Games of Chance Act.

Section 2. Legislative intent.

The General Assembly hereby declares that the playing of small games of chance for the purpose of raising funds, by certain nonprofit associations, for the promotion of charitable or civic purposes, is in the public interest.

It is hereby declared to be the policy of the General Assembly that all phases of licensing, operation and regulation of small games of chance be strictly controlled, and that all laws and regulations with respect thereto as well as all gambling laws should be strictly construed and rigidly enforced.

The General Assembly recognizes the possibility of association between commercial gambling and organized crime, and wishes to discourage commercialization of small games of chance, prevent participation by organized

crime and prevent the diversion of funds from the purposes herein authorized.

Section 3. Definitions.

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

“Bona fide club member.” Any individual who holds a full membership in the club as defined by the club’s constitution, charter, articles of incorporation or bylaws.

“Charitable organization.” A not-for-profit group or body of persons which is created and exists for the purpose of performing a humane service; promoting the good and welfare of the aged, poor, infirm or distressed; combating juvenile delinquency; or advancing the spiritual, mental, social and physical improvement of young men and women.

“Club.” An incorporated unit of a national veterans’ organization, as defined in section 461.1 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, and licensed to sell liquor at retail under the act; or a club, as defined in section 102 of the Liquor Code, that qualifies as an exempt organization under section 501(c) or 527 of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 501(c) or 527) and is licensed to sell liquor at retail and has a charitable, religious or civic purpose or is organized to benefit a political party; or an organized fraternal society created and carried on for the mutual benefit of its members, not-for-profit and not issuing capital stock, having a limited membership and a representative form of government and licensed to sell liquor at retail under the Liquor Code; or a not-for-profit religious or charitable organization conducting business in accordance with the express purpose of a written constitution, charter, articles of incorporation or bylaws. The term “club” shall also include any volunteer fire company, volunteer rescue squad or volunteer ambulance association. Each club shall have been in existence and fulfilling its purposes for two years prior to the date of application for a license.

“Department.” The Department of Revenue of the Commonwealth.

“Games of chance.” Punchboards, lotteries, raffles and pull-tabs, as defined in this act, provided that no such game shall be played by or with the assistance of any mechanical or electrical devices or media and further provided that the particular chance taken by any person in any such game shall not be made contingent upon any other occurrence or the winning of any other contest, but shall be determined solely at the discretion of the purchaser. This definition shall not be construed to authorize any other form of gambling currently prohibited under any provision of Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses). Nothing in this act shall be construed to authorize games commonly known as “slot machines” or “video poker.”

“Law enforcement official.” A municipal police officer, a member of the Pennsylvania State Police, the sheriff of a county or a deputy sheriff.

“Legitimate club purposes.” One or more of the following:

(1) Benefiting persons by enhancing their opportunity for religious or education advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical, emotional or social well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded.

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

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

(4) Improving, expanding, maintaining or repairing real property owned or leased by a club and used for purposes specified in paragraphs (1), (2) and (3).

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

“Licensing authority.” The county treasurer, or in any home rule county or city of the first class, where there is no elected treasurer, the designee of the governing authority.

“Lottery.” A game in which a bona fide club member or guest selects a number for a chance at a prize with the winner determined by a random drawing to take place on the licensed premises. The term includes games commonly known as “member sign-in lotteries” and “half-and-half lotteries.” Nothing in this act shall be construed to permit lotteries any part of which are conducted at locations other than the licensed premises, nor shall the term “lottery” include any game or contest in which the winning number is determined by any other drawing or event, except that winning numbers may be determined by reference to drawings conducted by the department pursuant to the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law.

“Pull-tab.” A single folded or banded ticket or a strip ticket or card with a face covered to conceal one or more numbers or symbols, where one or more of each set of tickets or cards has been designated in advance as a winner. “Pull-tab” also includes a ticket sold in a device known as a ticket jar, fish bowl or stamp machine.

“Punchboard.” A board, placard or other device marked off in a grid or columns, in which each section contains a hidden number or numbers, or other symbol, which determines the winning chances.

“Raffle.” A game in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing of corresponding ticket stubs to take place at a location and date printed upon each ticket.

“Religious organization.” A not-for-profit group or body of persons which is created and which exists for the predominant purpose of regularly holding or conducting religious activities or religious education, without pecuniary benefit to any officer, member or shareholder except as reasonable compensation for actual services rendered to the organization.

Section 4. Games of chance permitted.

Every club to which a license has been issued under the provisions of this act may conduct games of chance for the purpose of raising funds for legitimate club purposes. All proceeds of games of chance shall be used exclusively for legitimate club purposes or for the purchase of games of chance as permitted by this act.

Section 5. Prize limits.

(a) Individual prize limit.—The maximum cash value which may be awarded for any single chance shall be \$500.

(b) Weekly limit.—No more than \$5,000 in cash or merchandise shall be awarded by any club in any seven-day period.

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

(d) Exception.—A club may conduct a raffle and award a prize or prizes valued in excess of \$500 each only under the following conditions:

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

(2) No club shall be eligible to receive more than two special permits in any calendar year.

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

(4) The total cash value of all prizes shall be no more than \$25,000 for each raffle.

Section 6. Sales limited.

No person shall sell, offer for sale or furnish games of chance for use within this Commonwealth except to a club or distributor licensed under this act. No game of chance, other than a raffle, sold, offered for sale or furnished for use within this Commonwealth shall contain, permit, depict or designate a prize having a cash value in excess of \$500.

Section 7. Distributor licenses.

(a) License required.—No person shall sell, offer for sale or furnish games of chance to clubs licensed under this act unless such person shall have obtained a distributor license as provided in this section.

(b) Application.—An applicant for the grant or renewal of a distributor license issued pursuant to this section shall provide to the department, upon the form prescribed, all of the following:

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

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

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

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

(5) A statement that:

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

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

(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 any license issued pursuant to this section shall, by the filing of an application insofar as it relates to the department, 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 by the Office of Attorney General or the Department of Labor and Industry.

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

(e) **Limitation on approval.**—The department shall not approve any application for the grant or renewal of any license issued pursuant to this section where the applicant has failed to:

- (1) provide any of the information required by subsection (b);
- (2) file required State tax reports; or
- (3) pay any State taxes not subject to a timely administrative or judicial appeal or subject to a duly authorized deferred payment plan.

(f) **Records.**—The licensee shall keep such records, reports and books as the department shall prescribe. Applicants shall be required to make such records, reports and books available as required by the department pursuant to regulation.

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

- (1) has been convicted of a felony in a state or Federal court within the past five years; or
- (2) has been convicted within ten years of the date of application in a state or Federal court of a violation of the act of July 10, 1981 (P.L.214, No.67), known as the Bingo Law, or of this act or of a gambling-related offense under Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses) or other comparable State or Federal law.

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

(i) **Exception.**—This section shall not apply to the manufacture or distribution of raffle tickets.

Section 8. Registration of manufacturers.

(a) **Registration required.**—No manufacturer of games of chance shall sell any games of chance to any person unless the manufacturer has registered with the department and has been issued a certificate of registration.

(b) **Annual certificate; fee.**—A certificate under this section shall be valid for one year. The annual fee for registration shall be \$2,000.

(c) Prohibited sales.—A manufacturer shall not sell games of chance to any person not licensed as a distributor unless the manufacturer is also a licensed distributor.

(d) Exception.—This section shall not apply to the manufacture or distribution of raffle tickets.

Section 9. Regulations of department.

The department shall promulgate regulations to:

(1) Impose minimum standards and restrictions applicable to games of chance manufactured for sale in this Commonwealth, which may include standards and restrictions which specify the maximum number of chances available to be sold for any single game or prize and such other standards and restrictions as the department deems necessary for the purposes of this act. The department shall consider standards adopted by the National Association of Gambling Regulatory Agencies and other standards commonly accepted in the industry.

(2) Establish procedures by which manufacturers may register and distributors of games of chance may apply for licensure on forms which the department shall provide.

(3) Provide for the suspension or revocation of distribution licenses or manufacturer certificates for violations of this act or regulations of the department.

(4) Carry out other provisions of this act.

Section 10. Licensing of clubs to conduct games of chance.

(a) License required.—No club shall conduct or operate any games of chance unless such club has obtained and maintains a valid license issued pursuant to this section.

(b) Issuance and fees.—The licensing authority shall license, upon application, any club meeting the requirements for licensure contained in this act to conduct and operate games of chance at one location in the county. The license fee to be charged to each club shall be \$100. Licenses shall be renewable annually.

(c) Display.—Licenses issued pursuant to this section shall be publicly displayed on the premises.

(d) Operation.—Each licensed club shall comply with the following restrictions and rules governing the operation of games of chance:

(1) No person under 18 years of age, or in the case of a club holding a liquor license, 21 years of age, shall be permitted to operate or play games of chance.

(2) No club shall permit any person who has been convicted of a felony or a violation of the act of July 10, 1981 (P.L.214, No.67), known as the Bingo Law, or of this act to manage, set up, supervise or participate in the operation of games of chance.

(3) No club shall pay any compensation to any person for conducting any games of chance. Games of chance may only be conducted by club managers, officers, directors, bar personnel and persons who have been bona fide members of the club for at least one year.

(4) Games shall be conducted only on the licensed premises, except that raffle tickets may be sold at other locations for drawings to be held no more frequently than once a calendar month.

(5) The club shall own the premises upon which games of chance are played or shall lease such premises under a written agreement for a rental which is not determined by either the amount of receipts realized from the playing of games of chance nor the number of people attending. A club shall not lease such premises from any person who has been convicted of a violation of this act.

(6) Games, other than raffles, shall be purchased only from manufacturers and distributors approved by the department.

(7) No location or licensed premises may be used by more than one licensed club for the conducting of games of chance.

(e) Application for license.—Each club shall apply to the licensing authority for a license on a form to be prescribed by the Secretary of Revenue. The form shall contain an affidavit to be affirmed by the executive officer or secretary of the club stating that:

(1) No person under 18 years of age, or in the case of a club holding a liquor license, 21 years of age, will be permitted by the club to operate or play games of chance.

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

(3) The club is the owner of the premises upon which the games of chance are played or, if it is not, that the club is not leasing such premises from the owner thereof under an oral agreement, nor is it leasing such premises from the owner thereof under a written agreement at a rental which is determined by the amount of receipts realized from the playing of games of chance or by the number of people attending.

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

Section 11. Special permits.

(a) Issuance and fee.—The licensing authority shall issue a special permit for each raffle in which the licensee proposes to award individual prizes having a cash value in excess of \$500. The licensing authority may establish and collect a fee for the issuance of special permits under this section.

(b) Permit application.—Each special permit application shall specify the location where the actual drawing will be held, the number of chances to be sold, the price per chance and the cash value of the prize or prizes to be awarded.

(c) Location.—No location or licensed premises may be used by more than one licensed club for a special permit raffle in a calendar year.

Section 12. Revocation of licenses.

(a) Grounds.—The licensing authority shall revoke or refuse to renew the license of any club whenever the district attorney finds upon complaint and investigation that:

(1) Any of the funds derived from the operation of games of chance are used for any purpose other than for legitimate club purposes or for the purchase of games of chance as permitted by this act.

(2) Any person under 18 years of age, or in the case of a club holding a liquor license, a person under 21 years of age, is operating or playing games of chance as defined in this act.

(3) The club has permitted any person who has been convicted of a felony or a violation of the act of July 10, 1981 (P.L.214, No.67), known as the Bingo Law, or of this act, to manage, set up, supervise or participate in the operation of games of chance.

(4) The facility in which the games of chance are played does not have adequate means of ingress and egress and does not have adequate sanitary facilities available in the area.

(5) Any person or persons other than a manager, officer, director, bar personnel or a bona fide member of a club have been involved in managing, setting up, operating or running games of chance.

(6) Any person has received compensation for conducting games of chance.

(7) Any prize has been awarded in excess of the limits permitted under this act.

(8) The club has violated any condition of a special permit issued pursuant to section 11.

(9) The club conducts the games of chance upon premises which it does not own or lease in accordance with this act and is either:

(i) leasing such premises from the owner thereof under an oral agreement; or

(ii) leasing such premises from the owner thereof under a written agreement at a rental which is determined by the amount of receipts realized from the playing of games of chance.

(10) False or erroneous information was provided in the original application.

(11) A club has been convicted of a violation of this act as evidenced by a certified record of the conviction.

(12) The club has permitted another club to use its licensed premises for the conducting of games of chance.

(13) A club has conducted more than one raffle in any calendar month.

(b) Production of records.—The district attorney may require licensees to produce their books, accounts and records relating to the conduct of games of chance in order to determine whether a license should be revoked or renewal thereof denied. Licensees shall also be required to produce their license, books, accounts and records relating to the conduct of games of chance to other law enforcement officials upon proper request.

Section 13. Enforcement.

(a) District attorney.—The district attorney shall investigate alleged violations of this act. If the district attorney finds probable cause to believe that a violation has occurred, he may file a complaint against the alleged violator

in the court of common pleas of said county, except in counties of the first class where the complaint may be filed in the municipal court. In addition, the district attorney shall prosecute said complaint in the manner provided by law.

(b) Other law enforcement officials.—Nothing in this act shall be interpreted to restrict the power of State, county or local law enforcement officials to conduct investigations and enforce the provisions of this act.

Section 14. Local option.

(a) Election to be held.—In any municipality, an election may be held on the date of the primary election immediately preceding any municipal election, but not more than once in four years, to determine the will of the electors with respect to the issuance of licenses within the limits of such municipality under the provisions of this act. Where an election shall have been held at the primary election preceding a municipal election in any year, another election may be held under the provisions of this act at the primary election occurring the fourth year after such prior election. Whenever electors equal to at least 25% of the highest vote cast for any office in the municipality at the last preceding general election shall file a petition with the county board of elections of the county, or the governing body of the municipality adopts, by a majority vote, a resolution to place such a question on the ballot and a copy of the resolution is filed with the board of elections of the county, for a referendum on the question of issuing licenses, the county board of elections shall cause a question to be placed on the ballot or on the voting machine board and submitted at the primary election immediately preceding the municipal election. The question shall be in the following form:

Do you favor the issuance of licenses
to conduct small games of chance in the
of _____ ?

(b) Vote.—If a majority of the electors voting on the question vote “yes,” then licenses shall be issued by the licensing authority in such municipality, but if a majority of the electors voting on any such question vote “no,” then the licensing authority shall have no power to issue or to renew, upon their expiration, any licenses in such municipality, unless and until, at a later election, a majority of the voting electors vote “yes” on such question.

(c) Voting proceedings.—Proceedings under this section shall be in accordance with the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(d) Applicability.—This act applies only to those clubs located in municipalities which have adopted the provisions of this act by an affirmative vote in a municipal referendum in accordance with the provisions of this section.

(e) Withdrawal of approval.—The referendum procedure contained in this section shall also be available to withdraw the approval of the issuance of such licenses within such municipality which was granted through a prior referendum.

Section 15. Advertising.

It shall be unlawful for any club or person to advertise the prizes or their dollar value to be awarded in games of chance, provided that prizes may be identified on raffle tickets.

Section 16. Certain persons prohibited.

No distributor nor any person who has been convicted of a felony or of a violation of the act of July 10, 1981 (P.L.214, No.67), known as the Bingo Law, or of this act or of any comparable State or Federal law shall have a pecuniary interest in the operation or proceeds of games of chance.

Section 17. Penalties.

(a) **Summary offense.**—Any club violating the provisions of this act shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 and shall forfeit any license issued to the club, and it shall be ineligible for a license renewal for 30 months thereafter.

(b) **Misdemeanor.**—Any person who conducts or assists in the conducting of games of chance in violation of the provisions of this act is guilty of a misdemeanor of the first degree.

(c) **Distributors and manufacturers.**—Any person who distributes games of chance without a license or in violation of any provision of this act or applicable regulations, and any manufacturer of games of chance who delivers games of chance for sale or distribution in this Commonwealth who fails to obtain a permit therefor is guilty of a misdemeanor of the first degree, provided that no license or permit shall be required for the manufacture or distribution of raffle tickets.

(d) **Rigging.**—A person commits a misdemeanor of the first degree if, with intent to prevent a game of chance from being conducted in accordance with the requirements of this act or the rules and usages governing the game, he:

- (1) confers or offers or agrees to confer any benefit upon or threatens any injury to a participant or other person associated with the game;
- (2) tampers with any person or games; or
- (3) solicits, accepts or agrees to accept any benefit.

(e) **Contingent fees.**—Any person who distributes, manufactures or operates a small game of chance and who requires, for equipment furnished or to play a game, payment equal to a percentage of the total winnings of any game commits a misdemeanor of the first degree.

Section 18. Effective date.

This act shall take effect in 60 days.

APPROVED—The 19th day of December, A. D. 1988.

ROBERT P. CASEY