

No. 2004-71

AN ACT

HB 2330

Amending Title 4 (Amusements) of the Pennsylvania Consolidated Statutes, authorizing certain racetrack and other gaming; providing for regulation of gaming licensees; establishing and providing for the powers and duties of the Pennsylvania Gaming Control Board; conferring powers and imposing duties on the Department of Revenue, the Department of Health, the Office of Attorney General, the Pennsylvania State Police and the Pennsylvania Liquor Control Board; establishing the State Gaming Fund, the Pennsylvania Race Horse Development Fund, the Pennsylvania Gaming Economic Development and Tourism Fund, the Compulsive and Problem Gambling Treatment Fund and the Property Tax Relief Fund; providing for enforcement; imposing penalties; making appropriations; and making related repeals.

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

Section 1. Title 4 of the Pennsylvania Consolidated Statutes is amended by adding a part to read:

PART II
GAMING

Chapter

11. General Provisions
12. Pennsylvania Gaming Control Board
13. Licensees
14. Revenues
15. Administration and Enforcement
18. Fingerprinting
19. Miscellaneous Provisions

CHAPTER 11
GENERAL PROVISIONS

Sec.

1101. Short title of part.
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1103. Definitions.

CHAPTER 11
GENERAL PROVISIONS

§ 1101. Short title of part.

This part shall be known and may be cited as the Pennsylvania Race Horse Development and Gaming Act.

§ 1102. Legislative intent.

The General Assembly recognizes the following public policy purposes and declares that the following objectives of the Commonwealth are to be served by this part:

(1) The primary objective of this part to which all other objectives and purposes are secondary is to protect the public through the regulation and policing of all activities involving gaming and practices that continue to be unlawful.

(2) The authorization of limited gaming by the installation and operation of slot machines as authorized in this part is intended to enhance live horse racing, breeding programs, entertainment and employment in this Commonwealth.

(3) The authorization of limited gaming is intended to provide a significant source of new revenue to the Commonwealth to support property tax relief, wage tax reduction, economic development opportunities and other similar initiatives.

(4) The authorization of limited gaming is intended to positively assist the Commonwealth's horse racing industry, support programs intended to foster and promote horse breeding and improve the living and working conditions of personnel who work and reside in and around the stable and backside areas of racetracks.

(5) The authorization of limited gaming is intended to provide broad economic opportunities to the citizens of this Commonwealth and shall be implemented in such a manner as to prevent possible monopolization by establishing reasonable restrictions on the control of multiple licensed gaming facilities in this Commonwealth.

(6) The authorization of limited gaming is intended to enhance the further development of the tourism market throughout this Commonwealth, including, but not limited to, year-round recreational and tourism locations in this Commonwealth.

(7) Participation in limited gaming authorized under this part by any licensee or permittee shall be deemed a privilege, conditioned upon the proper and continued qualification of the licensee or permittee and upon the discharge of the affirmative responsibility of each licensee to provide the regulatory and investigatory authorities of the Commonwealth with assistance and information necessary to assure that the policies declared by this part are achieved.

(8) Strictly monitored and enforced control over all limited gaming authorized by this part shall be provided through regulation, licensing and appropriate enforcement actions of specified locations, persons, associations, practices, activities, licensees and permittees.

(9) Strict financial monitoring and controls shall be established and enforced by all licensees or permittees.

(10) The public interest of the citizens of this Commonwealth and the social effect of gaming shall be taken into consideration in any decision or order made pursuant to this part.

(11) It is necessary to maintain the integrity of the regulatory control and legislative oversight over the operation of slot machines in this Commonwealth; to prevent the actual or appearance of corruption that may result from large campaign contributions; ensure the bipartisan administration of this part; and avoid actions that may erode public confidence in the system of representative government.

§ 1103. Definitions.

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

“Affiliate” or “affiliated company.” A person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with a specified person.

“Applicant.” Any person, officer, director or key employee, who on his own behalf or on behalf of another, is applying for permission to engage in any act or activity which is regulated under the provisions of this part. In cases in which the applicant is a corporation, foundation, organization, business trust, estate, limited liability company, trust, partnership, limited partnership, association or any other form of legal business entity, the Pennsylvania Gaming Control Board shall determine the associated persons whose qualifications are necessary as a precondition to the licensing of the applicant.

“Approved,” “approval” or “approve.” When used in reference to an application submitted to the State Horse Racing Commission or the State Harness Racing Commission to conduct harness or thoroughbred race meetings or the Pennsylvania Gaming Control Board to authorize and regulate the placement and operation of slot machines, the terms refer to the date that an application to the State Horse Racing Commission, State Harness Racing Commission or the board is granted regardless of the pendency of any administrative or judicial appeals or other legal action challenging the decision of either commission or the board.

“Associated equipment.” Any equipment or mechanical, electromechanical or electronic contrivance, component or machine used in connection with gaming, including linking devices which connect to progressive slot machines or slot machines, replacement parts, equipment which affects the proper reporting of gross revenue, computerized systems for controlling and monitoring slot machines, including, but not limited to, the central control computer and devices for weighing or counting money.

“Authority.” An authority created by the Commonwealth which purchases State gaming receipts under section 1202 (relating to general and specific powers).

“Background investigation.” A security, criminal, credit and suitability investigation of a person as provided for in this part. The investigation shall include the status of taxes owed to the United States and to the Commonwealth and its political subdivisions.

“Backside area.” Those areas of the racetrack facility that are not generally accessible to the public and which include, but are not limited to, those facilities commonly referred to as barns, track kitchens, recreation halls, backside employee quarters and training tracks, and roadways providing access thereto. The term does not include those areas of the racetrack facility which are generally accessible to the public, including the various buildings commonly referred to as the grandstand or the racing surfaces, paddock enclosures and walking rings.

“Board.” The Pennsylvania Gaming Control Board established under section 1201 (relating to Pennsylvania Gaming Control Board established).

“Bonds.” Bonds, notes, instruments, refunding notes and bonds and other evidences of indebtedness or obligations, which an authority issues to fund the purchase of State gaming receipts.

“Bureau.” The Bureau of Investigations and Enforcement of the Pennsylvania Gaming Control Board.

“Central control computer.” A central site computer controlled by the Department of Revenue and accessible by the Pennsylvania Gaming Control Board to which all slot machines communicate for the purpose of auditing capacity, real-time information retrieval of the details of any financial event that occurs in the operation of a slot machine, including, but not limited to, coin in, coin out, ticket in, ticket out, jackpots, machine door openings and power failure, and remote machine activation and disabling of slot machines.

“Cheat.” To alter without authorization the elements of chance, method of selection or criteria which determine:

- (1) The result of a slot machine game.
- (2) The amount or frequency of payment in a slot machine game.
- (3) The value of a wagering instrument.
- (4) The value of a wagering credit.

The term does not include altering for required maintenance and repair.

“Commission” or “commissions.” The State Horse Racing Commission or the State Harness Racing Commission, or both as the context may require.

“Controlling interest.” A person shall be deemed to have the ability to control a publicly traded corporation, or to elect one or more of the members of its board of directors, if such holder owns or beneficially holds 5% or more of the securities of such publicly traded domestic or foreign corporation, partnership, limited liability company or any other form of legal entity, unless such presumption of control or ability to elect is rebutted by clear and convincing evidence. A person who is a holder of securities of a privately held domestic or foreign corporation, partnership, limited liability company or any other form of legal entity shall be deemed to possess a controlling interest unless such presumption of control is rebutted by clear and convincing evidence.

“Conviction.” A finding of guilt or a plea of guilty or nolo contendere, whether or not a judgment of sentence has been imposed as determined by the law of the jurisdiction in which the prosecution was held. The term does

not include a conviction that has been expunged or overturned or for which an individual has been pardoned or an order of Accelerated Rehabilitative Disposition.

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

“Financial backer.” An investor, mortgagee, bondholder, noteholder or other sources of equity or capital provided to an applicant or licensed entity.

“Fund.” The State Gaming Fund established under section 1403 (relating to establishment of State Gaming Fund and net slot machine revenue distribution).

“Gaming employee.” Any employee of a slot machine licensee, including, but not limited to:

- (1) Cashiers.
- (2) Change personnel.
- (3) Counting room personnel.
- (4) Slot attendants.
- (5) Hosts or other persons authorized to extend complimentary services.
- (6) Machine mechanics or computer machine technicians.
- (7) Security personnel.
- (8) Surveillance personnel.
- (9) Supervisors and managers.

The term includes employees of a person holding a supplier's license whose duties are directly involved with the repair or distribution of slot machines and associated equipment sold or provided to the licensed facility within this Commonwealth as determined by the Pennsylvania Gaming Control Board. The term does not include bartenders, cocktail servers or other persons engaged solely in preparing or serving food or beverages, clerical or secretarial personnel, parking attendants, janitorial, stage, sound and light technicians and other nongaming personnel as determined by the board.

“Gross terminal revenue.” The total of wagers received by a slot machine minus the total of:

- (1) Cash or cash equivalents paid out to patrons as a result of playing a slot machine which are paid to patrons either manually or paid out by the slot machine.
- (2) Cash paid to purchase annuities to fund prizes payable to patrons over a period of time as a result of playing a slot machine.
- (3) Any personal property distributed to a patron as the result of playing a slot machine. This does not include travel expenses, food, refreshments, lodging or services.

The term does not include counterfeit money or tokens, coins or currency of other countries which are received in slot machines, except to the extent that they are readily convertible to United States currency, cash taken in fraudulent acts perpetrated against a slot machine licensee for which the licensee is not reimbursed or cash received as entry fees for contests or tournaments in which the patrons compete for prizes.

“Horsemen of this Commonwealth.” A thoroughbred or standardbred horse owner or trainer who enters and runs his or her horse at a licensed racing entity in the current or prior calendar year and meets the requirements of the horsemen’s organization of which he or she is a member to participate in the receipt of benefits therefrom; or an employee of a trainer who meets the requirements of the horsemen’s organization of which he or she is a member to participate in the receipt of benefits therefrom.

“Horsemen’s organization.” A trade association which represents the majority of owners and trainers who own and race horses at a licensed racetrack.

“Institutional investor.” Any retirement fund administered by a public agency for the exclusive benefit of Federal, State or local public employees, investment company registered under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.), collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, closed-end investment trust, chartered or licensed life insurance company or property and casualty insurance company, banking and other chartered or licensed lending institution, investment advisor registered under The Investment Advisors Act of 1940 (54 Stat. 847, 15 U.S.C. § 80b-1 et seq.) and such other persons as the Pennsylvania Gaming Control Board may determine consistent with this part.

“Issued,” “issuance” or “issue.” When used in reference to an application submitted to the State Horse Racing Commission or the State Harness Racing Commission to conduct harness or thoroughbred race meetings or the Pennsylvania Gaming Control Board to authorize the placement and operation of slot machines, the terms refer to the date when a determination by the commissions or the board approving an application brought before the agencies becomes final, binding and nonappealable and is not subject to a pending legal challenge.

“Key employee.” Any individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that regulate slot machine operations, including the general manager and assistant manager of the licensed facility, director of slot operations, director of cage and/or credit operations, director of surveillance, director of marketing, director of management information systems, director of security, comptroller and any employee who supervises the operations of these departments or to whom these department directors or department heads report and such other positions which the Pennsylvania Gaming Control Board shall determine based on detailed analyses of job descriptions as provided in the internal controls of the licensee as approved by the board. All other gaming employees unless otherwise designated by the board shall be classified as non-key employees.

“Licensed entity.” Any slot machine licensee, manufacturer licensee, supplier licensee or other person licensed by the Pennsylvania Gaming Control Board under this part.

“Licensed facility.” The physical land-based location and associated areas at which a licensed gaming entity is authorized to place and operate slot machines.

“Licensed gaming entity” or “slot machine licensee.” A person that holds a slot machine license pursuant to this part.

“Licensed racetrack” or “racetrack.” The physical facility and grounds where a person has obtained a license from either the State Horse Racing Commission or the State Harness Racing Commission to conduct live thoroughbred or harness race meetings respectively with pari-mutuel wagering. The term “racetrack” or “its racetrack” shall mean the physical land-based location at which live horse racing is conducted even if not owned by the person.

“Licensed racing entity.” Any legal entity that has obtained a license to conduct live thoroughbred or harness horse race meetings respectively with pari-mutuel wagering from either the State Horse Racing Commission or the State Harness Racing Commission pursuant to the act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act.

“Manufacturer.” A person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs or otherwise makes modifications to any slot machine or associated equipment for use or play of slot machines in this Commonwealth for gaming purposes.

“Manufacturer license.” A license issued by the Pennsylvania Gaming Control Board authorizing a manufacturer to manufacture or produce slot machines or associated equipment for use in this Commonwealth for gaming purposes.

“Manufacturer licensee.” A manufacturer that obtains a manufacturer license.

“Municipality.” A city, borough, incorporated town or township.

“Net terminal revenue.” The net amount of the gross terminal revenue less the tax and assessments imposed by sections 1402 (relating to gross terminal revenue deductions), 1403 (relating to establishment of State Gaming Fund and net slot machine revenue distribution), 1405 (relating to Pennsylvania Race Horse Development Fund) and 1407 (relating to Pennsylvania Gaming Economic Development and Tourism Fund).

“Nonprimary location.” Any facility in which pari-mutuel wagering is conducted by a licensed racing entity other than the racetrack where live racing is conducted.

“Occupation permit.” A permit authorizing an individual to be employed or work as a gaming employee at a licensed facility.

“Permittee.” A holder of a permit issued pursuant to this part.

“Person.” Any natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association or any other form of legal business entity.

“Progressive payout.” A slot machine wager payout that increases in a monetary amount based on the amounts wagered in a progressive system.

“Progressive system.” A computerized system linking slot machines in one or more licensed facilities within this Commonwealth and offering one or more common progressive payouts based on the amounts wagered.

“Race Horse Industry Reform Act.” The act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act.

“Revenue- or tourism-enhanced location.” Any location within this Commonwealth determined by the Pennsylvania Gaming Control Board, in its discretion, which will maximize net revenue to the Commonwealth or enhance year-round recreational tourism within this Commonwealth, in comparison to other proposed facilities and is otherwise consistent with the provisions of this part and its declared public policy purposes.

“Security.” As defined in the act of December 5, 1972 (P.L.1280, No.284), known as the Pennsylvania Securities Act of 1972.

“Slot machine.” Any mechanical or electrical contrivance, terminal, machine or other device approved by the Pennsylvania Gaming Control Board which, upon insertion of a coin, bill, ticket, token or similar object therein or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine or other device to receive cash, billets, tickets, tokens or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. A slot machine:

(1) May utilize spinning reels or video displays or both.

(2) May or may not dispense coins, tickets or tokens to winning patrons.

(3) May use an electronic credit system for receiving wagers and making payouts.

The term shall include associated equipment necessary to conduct the operation of the contrivance, terminal, machine or other device.

“Slot machine license.” A license issued by the Pennsylvania Gaming Control Board authorizing a person to place and operate slot machines pursuant to this part and the rules and regulations under this part.

“Slot machine licensee.” A person that holds a slot machine license.

“State gaming receipts.” Revenues and receipts required by this part to be paid into the State Gaming Fund, the Pennsylvania Race Horse Development Fund and the Pennsylvania Gaming Economic Development and Tourism Fund, and all rights, existing on the effective date of this section or coming into existence later, to receive any of those revenues and receipts.

“State Treasurer.” The State Treasurer of the Commonwealth.

“Supplier.” A person that sells, leases, offers or otherwise provides, distributes or services any slot machine or associated equipment for use or play of slot machines in this Commonwealth.

“Supplier license.” A license issued by the Pennsylvania Gaming Control Board authorizing a supplier to provide products or services related to slot machines or associated equipment to slot machine licensees.

“Supplier licensee.” A supplier that holds a supplier license.

CHAPTER 12 PENNSYLVANIA GAMING CONTROL BOARD

Sec.

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§ 1201. Pennsylvania Gaming Control Board established.

(a) Board established.—There is established an independent administrative board to be known as the Pennsylvania Gaming Control Board, which shall be implemented as set forth in this section.

(b) Membership.—The board shall consist of the following members, who shall serve a set term and may not be removed except for good cause:

(1) Three members appointed by the Governor, each being referred to as a “gubernatorial appointee.”

(2) One member appointed by each of the following legislative caucus leaders, each being referred to as a “legislative appointee”:

(i) The President pro tempore of the Senate.

(ii) The Minority Leader of the Senate.

(iii) The Speaker of the House of Representatives.

(iv) The Minority Leader of the House of Representatives.

(c) Initial appointments to board.—

(1) Gubernatorial appointee members initially appointed under subsection (b)(1) shall serve an initial term of one, two and three years respectively as designated by the Governor at the time of appointment and until their successors are appointed and qualified.

(2) Legislative appointee members initially appointed under subsection (b)(2) shall serve until the third Tuesday in January 2007 and until their successors are appointed and qualified.

(3) Any appointment to fill a vacancy shall be for the unexpired term. Members so appointed to fill the unexpired term of an initial appointee shall be subject to the provisions of subsection (d).

(d) Appointments after expiration of initial term or upon vacancy.—Upon the expiration of a term of a member appointed under this subsection or upon the existence of a vacancy of a member appointed pursuant to subsection (c) or this subsection, the appointing authority shall appoint a member subject to the following:

(1) For a gubernatorial appointment under subsection (b)(1), the term shall be for three years and until a successor is appointed and qualified.

(2) Terms for legislative appointee members appointed under subsection (b)(2) shall be for a two-year term and shall expire on the third Tuesday of January of such year, but such members shall continue to serve until their successors are appointed and qualified.

(3) No legislative appointee member shall serve more than three full successive terms.

(4) No gubernatorial appointee member shall serve more than two full successive terms.

(5) An appointment to fill a vacancy shall be for the remainder of the unexpired term.

(e) Ex officio members.—The Secretary of Revenue, the Secretary of Agriculture and the State Treasurer shall serve on the board as nonvoting ex officio members of the board.

(f) Qualified majority vote.—

(1) Except as permitted in paragraphs (2) and (3), any action, including, but not limited to, the approval, issuance, denial or conditioning of any license by the board under this part or the making of any order or the ratification of any permissible act done or order made by one or more of the members, shall require a qualified majority vote consisting of at least one gubernatorial appointee and the four legislative appointees.

(2) Any action to suspend or revoke, not renew, void or require forfeiture of a license or permit issued under this part, to impose any administrative fine or penalty under this part or to issue cease and desist orders or similar enforcement actions shall require a majority vote of all the members appointed to the board.

(3) Notwithstanding any other provision to the contrary, a member shall disclose the nature of his disqualifying interest, disqualify himself and abstain from voting in a proceeding in which his or her impartiality may be reasonably questioned, including, but not limited to, instances where he or she knows that they possess a substantial financial interest in the subject matter of the proceeding or any other interest that could be

substantially affected by the outcome of the proceeding. In such circumstances in which it is a legislative appointee member that has disqualified himself or herself, the qualified majority shall consist of the remaining three legislative appointees and at least two gubernatorial appointees.

(g) Background investigation.—Appointees shall be subject to a background investigation conducted by the Pennsylvania State Police in accordance with this part.

(h) Qualifications and restrictions.—

(1) Each member at the time of appointment shall be at least 25 years of age and shall have been a resident of this Commonwealth for a period of at least one year immediately preceding appointment. Each member shall continue to remain a resident of this Commonwealth during the term of membership on the board.

(2) Except for ex officio members, no person shall be appointed a member of the board or hold any place, position or office under the board if that person holds any other elected office or party office as defined in section 1512 (relating to public official financial interest) in this Commonwealth or any of its political subdivisions.

(3) No member, appointee, employee or official shall hold any office or employment position, the duties of which are incompatible with the duties of the office.

(4) No member, employee, appointee or official engaged in the service of or in any manner connected with the board shall hold any office or position, or be engaged in any employment or vocation, the duties of which are incompatible with employment in the service of or in connection with the work of the board.

(5) No member shall be paid or accept for any service connected with the office any fee other than the salary and expenses provided by law. Nothing in this part shall prohibit a member from engaging in any employment or vocation or receiving any compensation for such employment or vocation that is not otherwise connected to or incompatible with his or her service as a member of the board.

(6) No member, employee, appointee or official shall participate in any hearing or proceeding in which that person has any direct or indirect pecuniary interest.

(7) At the time of appointment and annually thereafter, each member shall disclose the existence of all ownership interests in licensed facilities and all securities in any licensed entity or applicant, its affiliates or subsidiaries held by the member, the member's spouse and any minor or unemancipated children and must divest such ownership interests in licensed facilities or securities prior to an appointment becoming final. A member may not acquire any security in any licensed entity, its affiliates or subsidiaries during the member's tenure. The disclosure statement shall be filed with the executive director of the board and with the appointing

authority for such member and shall be open to inspection by the public at the office of the board during the normal business hours of the board during the tenure of the member and for two years after the member leaves office.

(8) Every member, employee, appointee or official of the board, in the service of or in connection with the work of the board, is forbidden, directly or indirectly, to solicit or request from or to suggest or recommend to any applicant, licensed entity, its affiliate, intermediary, subsidiary, holding company or to any officer, attorney, agent or employee thereof the appointment of any individual to any office, place or position in or the employment of any individual in any capacity by the applicant, licensed entity, its affiliate, intermediary, subsidiary or holding company.

(9) Every member, executive-level employee, appointee or official appointed to office in the service of or in connection with the work of the board is prohibited from accepting employment with any applicant, licensed gaming entity, its affiliate, intermediary, subsidiary or holding company for a period of one year from the termination of employment or service with the board. Every member, executive-level employee, appointee or official appointed to office in the service of or in connection with the work of the board is prohibited from appearing before the board on behalf of any applicant, licensed gaming entity, its affiliate, intermediary, subsidiary or holding company or other licensee or permittee of the board for a period of two years after terminating employment or service with the board.

(10) If any person employed or appointed in the service of the board violates any provision of this section, the appointing authority or the board shall forthwith remove the person from the office or employment, and the person shall be ineligible for future employment or service with the board and shall be ineligible to be approved for any license or permit under this part for a period of two years thereafter.

(11) No member or employee of the board shall wager or be paid any prize from any wager at any licensed facility within this Commonwealth or at any other facility outside this Commonwealth which is owned or operated by a licensed gaming entity or any of its affiliates or subsidiaries.

(12) A member of the board who has been convicted during his term in any domestic or foreign jurisdiction of a felony, crime of moral turpitude or gambling offense shall be automatically removed from the board and shall be ineligible to become a board member in the future.

(i) Compensation.—The Executive Board as established in the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, shall establish the compensation of the members appointed pursuant to this section. Members shall be reimbursed for all necessary and actual expenses.

(j) **Chairman.**—The chairman of the board shall be selected by the Governor.

(k) **Appointments.**—The appointing authorities shall make their initial appointments within 60 days of the effective date of this part. No appointment shall be final until receipt by the appointing authority of the required background investigation of the appointee by the Pennsylvania State Police which shall be completed within 30 days. No person who has been convicted in any domestic or foreign jurisdiction of a felony or gambling offense shall be appointed to the board.

(l) **Disclosure statements.**—Members and employees of the board are subject to the provisions of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure) and the act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

§ 1202. General and specific powers:

(a) **General powers.**—The board shall have general jurisdiction over all gaming activities or related activities as described in this part. The board shall be responsible to ensure the integrity of the acquisition and operation of slot machines and associated equipment and shall have jurisdiction over every aspect of the authorization and operation of slot machines. The board shall employ an executive director, chief counsel, deputies, secretaries, officers, hearing officers and agents as it may deem necessary, who shall serve at the board's pleasure. The board shall also employ other employees as it deems appropriate whose duties shall be determined by the board. In order to ensure the ability of the board to recruit and retain individuals necessary to execute its responsibilities under this part, the board shall set the classification and compensation of its employees and shall not be subject to the provisions of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as to classification and compensation for its employees and conduct its activities consistent with the practices and procedures of Commonwealth agencies. For the purposes of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the board shall not be considered an executive or independent agency. The board shall have such other powers and authority necessary to carry out its duties and the objectives of this part.

(b) **Specific powers.**—The board shall have the specific power and duty:

(1) To require background investigations on prospective or existing licensees, permittees or persons holding a controlling interest in any prospective or existing licensee or permittee under the jurisdiction of the board.

(2) To enter into an agreement with the Pennsylvania State Police for the reimbursement of actual costs as approved by the board to the Pennsylvania State Police for the investigations. Investigations shall include information in the possession of the Attorney General.

(3) For purposes of the background investigation, the board may receive information otherwise protected by 18 Pa.C.S. Ch. 91 (relating to criminal history record information).

(4) At its discretion, to issue, approve, renew, revoke, suspend, condition or deny issuance or renewal of slot machine licenses.

(5) At its discretion, to issue, approve, renew, revoke, suspend, condition or deny issuance or renewal of supplier and manufacturer licenses.

(6) At its discretion, to issue, approve, renew, revoke, suspend, condition or deny issuance or renewal of occupation permits.

(7) At its discretion, to issue, approve, renew, revoke, suspend, condition or deny issuance or renewal of any additional licenses or permits which may be required by the board under this part or by regulation, including, but not limited to, violations of sections 1328 (relating to change in ownership or control of slot machine licensee) and 1330 (relating to multiple slot machine license prohibition).

(8) At its discretion, to suspend, condition or deny the issuance or renewal of any license or permit or levy fines or other sanctions for any violation of this part.

(9) To require applicants for licenses and permits to submit to fingerprinting by the Pennsylvania State Police. The Pennsylvania State Police shall submit the fingerprints to the Federal Bureau of Investigation for purposes of verifying the identity of the applicants and obtaining records of criminal arrests and convictions.

(10) In addition to the power of the board regarding license and permit applicants, to determine at its discretion the suitability of any person who furnishes or seeks to furnish to a slot machine licensee directly or indirectly any services or property related to slot machines or associated equipment or through any arrangements under which that person receives payment based directly or indirectly on earnings, profits or receipts from the slot machines and associated equipment. The board may require any such person to comply with the requirements of this part and the regulations of the board and may prohibit the person from furnishing the services or property.

(11) As a board and through its designated officers, employees or agents, to administer oaths, examine witnesses and issue subpoenas to compel attendance of witnesses and production of all relevant and material reports, books, papers, documents and other evidence.

(12) Within six months after the effective date of this part, in a manner that does not impede the immediate implementation of the duties and responsibilities of the board under this part during the immediate two years after the effective date of this part, to develop and implement an affirmative action plan to assure that all persons are accorded equality of opportunity in employment and contracting by the board, its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

(13) Except for contracts related to the central control computer and such other contracts as the board, in consultation with the Secretary of General Services, determines would result in substantial savings to the board if entered into for a longer period than provided in this paragraph,¹ all contracts entered into by the board during the two-year period following the effective date of this part shall not exceed a term of two years.

(14) To promulgate rules and regulations the board deems necessary to carry out the policy and purposes of this part and to enhance the credibility and the integrity of the licensed operation of slot machines and associated equipment in this Commonwealth.

(15) The board shall not issue or renew a license or permit unless it is satisfied that the applicant is a person of good character, honesty and integrity and is a person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest or the effective regulation and control of slot machine operations or create or enhance the danger of unsuitable, unfair or illegal practices, methods and activities in the conduct of slot machine operations or the carrying on of the business and financial arrangements incidental thereto.

(16) Notwithstanding any other provision of law, the board is authorized to sell, in whole or in part, the Commonwealth's right, title and interest in State gaming receipts to an authority created by the Commonwealth. The sale shall be subject to the terms and conditions contained in agreements between the board and the authority. Proceeds from the sale of State gaming receipts shall be allocated and used in the manner otherwise provided by this part for the distribution of State gaming receipts. The authority created by the Commonwealth is authorized to purchase State gaming receipts upon terms and conditions agreed to by the board and to issue bonds to fund the purchase of State gaming receipts in the manner provided for the issuance of authority indebtedness in the law establishing the authority. The State Treasurer is authorized and directed to enter into any agreements with the board and the authority and establish accounts and funds, that shall not be in the State Treasury, as the authority may direct as being necessary or appropriate to effect the sale of State gaming receipts to the authority and the collection and transfer of the State gaming receipts sold to the authority. State gaming receipts sold to the authority shall be the property of the authority and shall not be the property of the Commonwealth.

(17) To create a Bureau of Investigations and Enforcement within the board. The board shall promulgate regulations pertaining to the operation of the bureau which shall insure separation of functions between the bureau and the board. The board shall provide the employees necessary to the bureau for enforcement of this part.

¹"provided herein," in enrolled bill.

(18) To enter into an agreement with the district attorneys of the counties wherein licensed facilities are located and the Office of Attorney General for the reimbursement of actual costs for prosecutions of criminal violations of this part.

§ 1203. Temporary regulations.

(a) Promulgation.—Notwithstanding any other provision of law to the contrary and in order to facilitate the prompt implementation of this part, regulations promulgated by the board during the two years following the effective date of this part shall be deemed temporary regulations which shall expire no later than three years following the effective date of this part or upon promulgation of regulations as generally provided by law. The temporary regulations shall not be subject to:

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

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

(b) Expiration.—The authority provided to the board to adopt temporary regulations in subsection (a) shall expire two years from the effective date of this section. Regulations adopted after the two-year period shall be promulgated as provided by law.

§ 1204. Licensed entity application appeals from board.

The Supreme Court of Pennsylvania shall be vested with exclusive appellate jurisdiction to consider appeals of any final order, determination or decision of the board involving the approval, issuance, denial or conditioning of all licensed entity applications. Notwithstanding the provisions of 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action) and 42 Pa.C.S. § 763 (relating to direct appeals from government agencies), the Supreme Court shall affirm all final orders, determinations or decisions of the board involving the approval, issuance, denial or conditioning of all licensed entity applications unless it shall find that the board committed an error of law or that the order, determination or decision of the board was arbitrary and there was a capricious disregard of the evidence.

§ 1205. License or permit application hearing process.

The board's consideration and resolution of all license or permit applications shall be conducted in accordance with procedures adopted by order of the board. Notwithstanding the mandates of 2 Pa.C.S. §§ 504 (relating to hearing and record) and 505 (relating to evidence and cross-examination), said procedures adopted by order of the board shall provide parties before it with a documentary hearing, but the board may, at its discretion, resolve disputed material facts without conducting an oral hearing where constitutionally permissible.

§ 1206. Board minutes and records.

(a) Open proceedings and records.—The proceedings of the board shall be conducted in accordance with the provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings). The board shall be an agency for purposes of the act of

June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law. Notwithstanding any provision of law to the contrary, confidential documents relative to personal background information provided to the board pursuant to this part and any closed deliberations of the board, including disciplinary proceedings, shall be confidential and considered in closed executive session pursuant to subsection (f).

(b) Record of proceedings.—The board shall cause to be made and kept a record of all proceedings held at public meetings of the board. A verbatim transcript of those proceedings shall be prepared by the board upon the request of any board member or upon the request of any other person and the payment by that person of the costs of preparation.

(c) Information delivered to Governor and General Assembly.—A true copy of the minutes of every meeting of the board and of any regulations finally adopted by the board may be forthwith delivered, by and under the certification of the executive director, to the Governor, the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(d) Applicant information.—

(1) The board shall keep and maintain a list of all applicants for licenses and permits under this part together with a record of all actions taken with respect to the applicants, which file and record shall be open to public inspection.

(2) Information under paragraph (1) regarding any applicant whose license or permit has been denied, revoked or not renewed shall be removed from such list after seven years from the date of the action.

(e) Other files and records.—The board shall maintain such other files and records as it may deem appropriate.

(f) Confidentiality of information.—All information contained in the application process pursuant to section 1310(a) (relating to slot machine license application character requirements) and the report of an applicant's background investigation furnished to or obtained by the board or the bureau from any source shall be considered confidential and shall be withheld from public disclosure in whole or in part, except that any information shall be released upon the lawful order of a court of competent jurisdiction or, with the approval of the Attorney General, to a duly authorized law enforcement agency or shall be released to the public, in whole or in part, to the extent that such release is requested by an applicant and does not otherwise contain confidential information about another person. The board may not require any applicant to waive any confidentiality provided for in this subsection as a condition for the approval of a license or any other action of the board. Any person who violates this subsection shall be administratively disciplined by discharge, suspension or other formal disciplinary action as the board deems appropriate.

(g) Notice.—Notice of the contents of any information, except to a duly authorized law enforcement agency pursuant to this section, shall be given to any applicant or licensee in a manner prescribed by the rules and regulations adopted by the board.

(h) Information held by department.—Files, records, reports and other information in the possession of the department pertaining to licensees shall be made available to the board as may be necessary to the effective administration of this part.

§ 1207. Regulatory authority of board.

The board shall have the power and its duties shall be to:

(1) Deny, deny the renewal, revoke, condition or suspend any license or permit provided for in this part if the board finds in its sole discretion that a licensee or permittee under this part, or its officers, employees or agents, have furnished false or misleading information to the board or failed to comply with the provisions of this part or the rules and regulations of the board and that it would be in the public interest to deny, deny the renewal, revoke, condition or suspend the license or permit.

(2) Restrict access to confidential information in the possession of the board which has been obtained under this part and ensure that the confidentiality of information is maintained and protected. Records shall be retained by the board for seven years.

(3) Prescribe and require periodic financial reporting and internal control requirements for all licensed entities.

(4) Require that each licensed entity provide to the board its audited annual financial statements, with such additional detail as the board from time to time shall require, which information shall be submitted not later than 60 days after the end of the licensee's fiscal year.

(5) Prescribe the procedures to be followed by slot machine licensees for any financial event that occurs in the operation of slot machines.

(6) Prescribe criteria and conditions for the operation of slot machine progressive systems.

(7) Enforce prescribed hours for the operation of slot machines so that slot machine licensees may operate slot machines on any day during the year in order to meet the needs of patrons or to meet competition.

(8) Require that each licensed gaming entity prohibit persons under 21 years of age from operating or using slot machines.

(9) Establish procedures for the inspection and certification of compliance of each slot machine and associated equipment prior to being placed into use by a slot machine licensee.

(10) Require that no slot machine may be set to pay out less than the theoretical payout percentage, which shall be no less than 85%, as specifically approved by the board. The board shall adopt regulations that define the theoretical payout percentage of a slot machine game based on the total value of the jackpots expected to be paid by a play or a slot machine game divided by the total value of slot machine wagers expected

to be made on that play or slot machine game during the same portion of the game cycle. In so doing, the board shall decide whether the calculation shall include the entire cycle of a slot machine game or any portion thereof.

(11) Require each slot machine license applicant to provide detailed site plans of its proposed licensed facility which shall be reviewed and approved by the board for the purpose of determining the adequacy of the proposed security and surveillance measures inside and outside the facility. Applicants will cooperate with the board in making changes to the plans suggested by the board and will ensure that the plans as modified and approved are implemented.

(12) Upon request, provide background investigation reports of applicants for licenses and permits for use at racetracks to the State Horse Racing Commission and the State Harness Racing Commission.

(13) Require slot machine licensees to provide onsite facilities for use by the board and other appropriate persons for the purpose of carrying out their respective responsibilities under this part.

(14) Consult with members of the Pennsylvania State Police, the Office of Attorney General, the department and such other persons it deems necessary for advice regarding the various aspects of the powers and duties imposed on it under this part and its jurisdiction over the authorization and operation of slot machines and licensed facilities.

(15) Enter into contracts with any person for the purposes of carrying out the powers and duties of the board under this part.

(16) Require each slot machine licensee to sell Pennsylvania State Lottery tickets at its licensed facility at a location as near as practicable to the pay windows.

(17) Permit, in its discretion and upon application, the use of a temporary facility within which slot machines may be available for play or operation at a licensed gaming facility, for a period not to exceed 24 months, provided that, upon good cause shown, the board may extend permission to operate a temporary facility for an additional 12-month period.

§ 1208. Collection of fees and fines.

The board has the following powers and duties:

(1) To levy and collect fees from the various applicants, licensees and permittees to fund the operations of the board. The fees shall be deposited into the State Gaming Fund as established in section 1403 (relating to establishment of State Gaming Fund and net slot machine revenue distribution). In addition to the fees set forth in sections 1209 (relating to slot machine license fee) and 1305 (relating to Category 3 slot machine license), the board shall assess and collect fees as follows:

(i) Supplier licensees shall pay a fee of \$25,000 upon the issuance of a license and \$10,000 for the annual renewal of a supplier license.

(ii) Manufacturer licensees shall pay a fee of \$50,000 upon the issuance of a license and \$25,000 for the annual renewal of a manufacturer license.

(iii) Each application for a slot machine license, supplier license or manufacturer license must be accompanied by a nonrefundable fee set by the board for the cost of each individual requiring a background investigation. The reasonable and necessary costs and expenses incurred in any background investigation or other investigation or proceeding concerning any applicant, licensee or permittee shall be reimbursed to the board by those persons.

(2) To provide for the assessment and collection of fines and penalties for violations of this part. All fines and penalties shall be credited for deposit to the General Fund. Two years following enactment of this part, the board shall have the authority to increase each year any fee, charge, cost or administrative penalty, but not any criminal fine or penalty, provided in this part by an amount not to exceed an annual cost-of-living adjustment calculated by applying the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area for the most recent 12-month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics, immediately prior to the date the adjustment is due to take effect.

§ 1209. Slot machine license fee.

(a) Imposition.—Except as provided for a Category 3 licensed gaming entity under section 1305 (relating to Category 3 slot machine license) and subject to the requirements of this section, at the time of license issuance the board shall impose a one-time slot machine license fee to be paid by each successful applicant in the amount of \$50,000,000 for each category of slot machine license.

(b) Term.—A slot machine license, after payment of the fee, shall be in effect unless suspended, revoked or not renewed by the board upon good cause consistent with the license requirements as provided for in this part. Slot machine licensees shall be required to update the information in their initial applications annually, and the license of a licensee in good standing shall be updated and renewed annually. As to the renewal of a license, no additional license fee pursuant to subsection (a) shall be required.

(c) Credit against tax for slot machine licensees.—If the rate of the tax imposed by section 1403 (relating to establishment of State Gaming Fund and net slot machine revenue distribution) is increased at any time during the term of ten years following the initial issuance of the slot machine license, the slot machine licensee shall be entitled to a credit against subsequent payment of the tax equal to the difference between the tax calculated at the rate when the license was issued and the tax calculated at the increased rate. This credit shall be applied on a dollar-for-dollar basis as and when the tax is payable as set forth in section 1403 but shall not extend beyond the ten-year period

following the initial issuance of the license. The aggregate amount of all credits provided shall not exceed the amount of the licensing fee paid by the licensee. The department shall enter into a contract with each slot machine licensee explicitly setting forth the terms and conditions of this credit and which also specifically incorporates the requirements of subsection (f).

(d) Deposit of license fee.—The total amount of all license fees imposed and collected by the board under this section shall be deposited in the State Gaming Fund.

(e) Change of ownership or control of a license.—In the event that the ownership or control of a slot machine licensee or its affiliate, intermediary, subsidiary or holding company is changed as described in section 1328 (relating to change in ownership or control of slot machine licensee), the new owner shall be entitled to the full remaining amount of the credit set forth in subsection (c) or the return of the license fee in accordance with subsection (f) as if the new owner or controlling interest was the original licensee.

(f) Return of slot machine license fee.—

(1) The entire one-time slot machine license fee of \$50,000,000 for each Category 1 and Category 2 slot machine license shall be returned to each licensee in the event section 1201 (relating to Pennsylvania Gaming Control Board established), 1202 (relating to general and specific powers) or 1307 (relating to number of slot machine licenses) is amended or otherwise altered by an act of the General Assembly within five years following the initial issuance of any slot machine licenses pursuant to section 1301 (relating to authorized slot machine licenses) to change:

(i) the composition of the board;

(ii) the number or voting powers of¹ members of the board;

(iii) the manner in which members are nominated or appointed to the board;

(iv) the length of term for which each member serves;

(v) the general jurisdiction of the board in a manner that impairs or otherwise reduces the board's licensing authority; or

(vi) section 1307 to increase the statutory maximum number of permissible licensed facilities.

(2) In the event that this part is amended or otherwise altered by an act of the General Assembly as described pursuant to paragraph (1):

(i) In the sixth year following the initial issuance of any slot machine licenses pursuant to section 1301, a Category 1 and 2 slot machine licensee shall be entitled to a partial return of the one-time slot machine license fee in the amount of \$41,666,667.

(ii) In the seventh year, the licensee shall be entitled to a partial return of the one-time slot machine license fee in the amount of \$33,333,334.

¹“number, voting powers or” in enrolled bill.

(iii) In the eighth year, the licensee shall be entitled to a partial return of the one-time slot machine license fee in the amount of \$25,000,000.

(iv) In the ninth year, the licensee shall be entitled to a partial return of the one-time slot machine license fee in the amount of \$16,666,668.

(v) In the tenth year, the licensee shall be entitled to a partial return of the one-time machine license fee in the amount of \$8,333,334.

In the event that the action described in paragraph (1) occurs after the expiration of ten years, the licensee shall not be entitled to a return of any portion of the one-time slot machine license fee. Notwithstanding the foregoing, no slot machine licensee shall be entitled to the return of any portion of the fee as a result of any act of the General Assembly insofar as it implements a recommendation made by the board pursuant to a qualified majority vote. In the event a full or partial return of the slot machine license fee imposed pursuant to subsection (a) becomes due pursuant to this subsection, the amount to be returned to any slot machine licensee shall be reduced on a dollar-for-dollar basis by the total accumulated tax credits granted to such licensee pursuant to subsection (c). In no event shall the total amount of the slot machine license fee returned, combined with the total tax credits granted, exceed the amounts set forth in this subsection for any licensee. The total or partial return of the slot machine license fee shall extinguish a licensee's right to claim any further tax credits pursuant to subsection (c).

§ 1210. Number of slot machines.

(a) Initial complement.—Except as provided for Category 3 slot machine licensees under section 1305 (relating to Category 3 slot machine license), all slot machine licensees shall be permitted to operate up to 3,000 slot machines at any one licensed facility and shall be required to operate and make available to play a minimum of 1,500 machines at any one licensed facility within one year of the issuance by the board of a slot machine license unless otherwise extended by the board, upon application and for good cause shown, for an additional period not to exceed 24 months.

(b) Additional slot machines.—Except as provided for Category 3 slot machine licensees under section 1305, six months following the date of commencement of slot machine operations, the board may permit a slot machine licensee to install and operate up to 2,000 additional slot machines at its licensed facility, beyond those machines authorized under subsection (a), upon application by the slot machine licensee. The board, in considering such an application, shall take into account the appropriateness of the physical space where the additional slot machines will be located and the convenience of the public attending the facility. The board may also take into account the potential benefit to economic development, employment and tourism, enhanced revenues to the Commonwealth and other economic indicators it deems applicable in making its decision.

§ 1211. Reports of board.

(a) Report of board.—Eighteen months after the effective date of this part and every year on that date thereafter, the board shall issue a report to the Governor and each member of the General Assembly on the general operation of the board and each slot machine licensee's performance, including, but not limited to, number and win per slot machine at licensed facilities during the previous year, all taxes, fees, fines and other revenues collected and, where appropriate, disbursed, the costs of operation of the board, all hearings conducted and the results of the hearings and other information that the board deems necessary and appropriate.

(b) Report of the Legislative Budget and Finance Committee.—No later than March 15 of the year following the effective date of this part and each March 15 thereafter, the Legislative Budget and Finance Committee shall issue a report to the General Assembly analyzing the impact, if any, of this part on the State Lottery.

(c) Interception of gaming winnings.—The board shall conduct a study to determine the feasibility of implementing methods for the interception of the gaming winnings of individuals who are delinquent support obligors or tax delinquent. The study shall be completed by December 31, 2006, and shall contain recommendations which the board determines appropriate.

§ 1212. Diversity goals of board.

(a) Intent.—It is the intent and goal of the General Assembly that the board promote and ensure diversity in all aspects of the gaming activities authorized under this part. The board shall work to enhance the representation of diverse groups in the ownership, participation and operation of licensed entities and licensed facilities in this Commonwealth and through the ownership, participation and operation of business enterprises associated with or utilized by licensed entities and licensed facilities and through the provision of goods and services utilized by slot machine licensees under this part.

(b) Investigations.—The board is authorized to investigate and conduct an annual study to ascertain whether effective and meaningful action has been taken or will be taken to enhance the representation of diverse groups in the ownership, participation and operation of licensed facilities in this Commonwealth, through the ownership and operation of business enterprises associated with or utilized by slot machine licensees, through the provision of goods and services utilized by slot machine licensees and through employment opportunities.

(c) Completion of investigation.—The first study shall be completed six months following the effective date of this part, if practically possible, and annually thereafter and shall contain recommendations which the board determines appropriate.

§ 1213. License or permit prohibition.

No applicant for a license or permit under this part, including directors, owners and key employees, that has been convicted in any jurisdiction of a

felony or gambling offense within the past 15 years shall be issued a license or permit under this part or be found qualified to serve in a position as a director, owner or key employee of or associated with any licensee or permittee.

CHAPTER 13 LICENSEES

Sec.

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§ 1301. Authorized slot machine licenses.

There shall be three distinct classifications of slot machine licenses, designated by category, each permitting a licensed racing entity or person to apply for a qualifying license category and, upon issuance by the board in its discretion, to place and operate slot machines at a licensed facility. Except for conditional Category 1 license applications pursuant to section 1315 (relating

to conditional Category 1 licenses), it is mandatory that the board shall consider, approve, condition or deny the approval of all initial applications for each and every category of slot machine licenses collectively and together, in a comprehensive Statewide manner, within 12 months following the time set by the board at which all applications are to be filed and deemed complete by the board. The board shall approve, condition or deny the issuance of a slot machine license of any category within the time period provided for herein. Following approval of an application for a slot machine license, the applicant shall provide formal notification to the board as soon as:

- (1) it fulfills all required conditions for issuance of the license; and
- (2) the board's decision approving the application is a final, binding, nonappealable determination which is not subject to a pending legal challenge.

Upon receipt of such formal notification and upon conducting any necessary verification, the board shall issue a slot machine license to the applicant.

§ 1302. Category 1 slot machine license.

(a) Eligibility.—A person may be eligible to apply for a Category 1 license to place and operate slot machines at a licensed racetrack facility if the person:

(1) has been issued a license from either the State Horse Racing Commission or the State Harness Racing Commission to conduct thoroughbred or harness race meetings respectively with pari-mutuel wagering and has conducted live horse races for not less than two years immediately preceding the effective date of this part;

(2) has been approved or issued a license from either the State Horse Racing Commission or the State Harness Racing Commission to conduct thoroughbred or harness race meetings respectively with pari-mutuel wagering within 18 months immediately preceding the effective date of this part and will successfully conduct live racing pursuant to the requirements of section 1303 (relating to additional Category 1 slot machine license requirements);¹

(3) has been approved by the State Harness Racing Commission, after the effective date of this part, to conduct harness race meetings with pari-mutuel wagering and will conduct live racing pursuant to the requirements of section 1303; or²

(4) is a successor in interest to persons eligible under paragraph (1), (2) or (3) who comply with the requirements of section 1328 (relating to change in ownership or control of slot machine licensee) or is a successor in interest to persons otherwise eligible under paragraph (1), (2) or (3) but precluded from eligibility under the provisions of section 1330.

Nothing in this part shall be construed to permit the approval or issuance of more than one slot machine license at a licensed racetrack facility.

¹“; or” in enrolled bill.

²“1303.” in enrolled bill.

(b) Location.—A Category 1 license may only be issued to an eligible person authorizing slot machine operations at the particular licensed racetrack facility identified in the application. No Category 1 licensed facility shall be located within 20 linear miles of another Category 1 licensed facility.

§ 1303. Additional Category 1 slot machine license requirements.

(a) Eligibility.—In addition to the criteria prescribed in section 1302 (relating to Category 1 slot machine license), an applicant for a Category 1 slot machine license shall be eligible for a license to place and operate slot machines at a licensed facility only if the applicant meets one of the following criteria:

(1) the licensed racing entity or its predecessor owner of the licensed racetrack has conducted live horse races for not less than two years immediately preceding the effective date of this part; or

(2) the licensed racing entity has not previously conducted live racing at a racetrack but will conduct live racing for a minimum of 150 days to begin in the year which begins two years following the issuance of its slot machine license for the racetrack unless the appropriate commission determines, upon application, that it is not practically feasible for the licensed racing entity to conduct live racing for a minimum of 150 days due to projected or actual weather conditions. Failure to meet the required minimum number of days will result in immediate suspension of the slot machine license.

(b) Required racing days.—Except as provided in subsection (a)(2), a Category 1 slot machine licensee must conduct live racing at the racetrack for at least 100 days per calendar year for each license held by the licensed racing entity pursuant to the Race Horse Industry Reform Act, and the aggregate number of live racing days at the racetrack where the Category 1 slot machine licensee conducts live racing shall not be less than 95% of the total number of horse or harness racing days that were scheduled in 1986 at that racetrack. If a racing day is canceled for reasons beyond the control of the licensed racing entity, the appropriate commission shall grant the licensee the right to conduct that racing day in the same or next ensuing calendar year. The purse for that racing day shall not be used for the purse of other scheduled racing days of that calendar year and must be used for the purse of such rescheduled day.

(c) Limitations.—The issuance of a Category 1 slot machine license shall entitle the licensee to operate slot machines only within the grounds of a licensed racetrack.

(d) Authorization.—Authorization for a Category 1 slot machine licensee to continue the operation of slot machines shall be limited to those licensees that:

(1) Have a written live racing agreement with a horsemen's organization representing a majority of owners and trainers at the racetrack where the licensed racing entity conducts live racing.

(2) Have 95% of the total number of horse or harness racing days that were scheduled in 1986 by it or its predecessor at the racetrack where the Category 1 slot machine licensee conducts live racing, and the aggregate number of live racing days at the racetrack where the Category 1 slot machine licensee conducts live racing shall not be less than 95% of the total number of horse or harness racing days that were scheduled in 1986 at that racetrack. A new licensee which opens a new racetrack and which will successfully conduct live racing for a minimum of 150 days to begin no later than in the year which begins two years following the issuance of its slot machine license for the racetrack, unless the appropriate commission determines upon application that it is not practically feasible for the licensed racing entity to conduct live racing for a minimum of 150 days due to projected or actual weather conditions, shall be allowed to operate slot machines, from the date its slot machine license is issued and intrastate and interstate simulcast in accordance with the Race Horse Industry Reform Act, from the first day of the calendar year in which it conducts live racing days.

(3) Unless the horsemen's organization representing a majority of the owners and trainers consents to a lower number of required racing days at the racetrack, subject to actions or activities beyond the control of the licensee, conduct not fewer than eight live races per race date during each meet at the racetrack where the licensed racing entity conducts live racing, except for thoroughbred tracks on the day designated as a Breeder's Cup event day when the licensed racing entity shall hold a minimum of five live races. The Category 1 slot machine licensee shall not waive or modify the provisions pertaining to the required number of racing days under paragraph (2) and races per day scheduled in this paragraph without the consent of the horsemen's organization representing a majority of owners and trainers at the racetrack.

(4) Notwithstanding the provisions of paragraph (1), in the event that a written live racing agreement has not been entered into, permission for any licensee to operate slot machines at racetracks shall be granted provided that the Category 1 slot machine licensee has continued to conduct live racing in accordance with paragraphs (2) and (3) and keeps its racetrack open to the general population of owners, trainers and horses stabled there for training and stabling on a regular basis, when it is normally open for live racing and during such periods, and continues to comply with all provisions of the most recently expired live racing agreement, including recognition of the then existing horsemen's organization at each such racetrack as the sole representative of the horsemen at that time, and pays purses as defined in the most recently expired live racing agreement plus the applicable purse revenue distributed to licensed racing entities from the operation of slot machines under this part. Nothing in this part shall exempt an existing or future licensed racetrack from the requirements of the Race Horse Industry Reform Act requiring a licensed corporation to

have a written and unexpired live racing agreement with the horsemen's organization representing a majority of owners and trainers at the racetrack where the licensed corporation conducts or will conduct live racing dates in order to continue or commence any form of simulcasting.

(5) Notwithstanding any other provision of the law to the contrary, account wagers authorized pursuant to section 218(b) of the Race Horse Industry Reform Act shall only be accepted by a licensed corporation in accordance with the provisions of the Race Horse Industry Reform Act, and no entity that is not a licensed corporation under that act shall accept an account wager from any person within this Commonwealth.

§ 1304. Category 2 slot machine license.

(a) Eligibility.—A person may be eligible to apply for a Category 2 license if the applicant, its affiliate, intermediary, subsidiary or holding company is not otherwise eligible to apply for a Category 1 license and the person is seeking to locate a licensed facility in a city of the first class, a city of the second class or a revenue- or tourism-enhanced location. It shall not be a condition of eligibility to apply for a Category 2 license to obtain a license from either the State Horse Racing Commission or the State Harness Racing Commission to conduct thoroughbred or harness race meetings respectively with pari-mutuel wagering.

(b) Location.—Two Category 2 licensed facilities and no more shall be located by the board within a city of the first class, and one Category 2 licensed facility and no more shall be located by the board within a city of the second class. No Category 2 licensed facility located by the board within a city of the first class shall be within ten linear miles of a Category 1 licensed facility regardless of the municipality where the Category 1 licensed facility is located. Except for any Category 2 licensed facility located by the board within a city of the first class or a city of the second class, no Category 2 licensed facility shall be located within 30 linear miles of any Category 1 licensed facility that has conducted over 200 racing days per year for the two calendar years immediately preceding the effective date of this part and not within 20 linear miles of any other Category 1 licensed facility. Except for any Category 2 licensed facility located by the board within a city of the first class, no Category 2 licensed facility shall be located within 20 linear miles of another Category 2 licensed facility.

§ 1305. Category 3 slot machine license.

(a) Eligibility.—A person may be eligible to apply for a Category 3 license if the applicant, its affiliate, intermediary, subsidiary or holding company has not applied for or been approved or issued a Category 1 or 2 license and the person is seeking to locate a Category 3 licensed facility in a well-established resort hotel having no fewer than 275 guest rooms under common ownership and having substantial year-round recreational guest amenities. The applicant for a Category 3 license shall be the owner or be a wholly owned subsidiary of the owner of the established resort hotel. A

Category 3 license may only be granted upon the express condition that an individual may not enter a gaming area of the licensee if the individual is not a registered overnight guest of the established resort hotel or if the individual is not a patron of one or more of the amenities provided by the established resort hotel.

(b) Location.—No Category 3 license shall be located by the board within 15 linear miles of another licensed facility.

(c) Number of slot machines.—Notwithstanding the number of permissible slot machines as set forth in section 1210 (relating to number of slot machines), a Category 3 license granted under the provisions of this section shall entitle the licensed entity to operate no more than 500 slot machines at the licensed facility.

(d) Category 3 license fee.—Notwithstanding the one-time slot machine license fee as set forth in section 1209 (relating to slot machine license fee), the board shall impose a one-time Category 3 license fee to be paid by each successful applicant in an amount of \$5,000,000. The provisions of section 1209 relating to term, credit against tax for slot machine licensees, deposit of license fee and change of ownership or control of a license shall be applicable to a Category 3 license fee.

(e) Definitions.—For the purpose of subsection (a), the following words and phrases shall have the meaning given to them in this subsection:

“Amenities.” Any ancillary activities, services or facilities in which a registered guest or the transient public, in return for non-de minimis consideration as defined by board regulation, may participate at a resort hotel, including, but not limited to, sports and recreational activities and facilities such as a golf course or golf driving range, tennis courts or swimming pool; health spa; convention, meeting and banquet facilities; entertainment facilities; and restaurant facilities.

“Patron of the amenities.” Any individual who is a registered attendee of a convention, meeting or banquet event or a participant in a sport or recreational event or any other social, cultural or business event held at a resort hotel or who participates in one or more of the amenities provided to registered guests of the resort hotel.

§ 1306. Order of initial license issuance.

In order to facilitate the timely and orderly deployment of licensed gaming operations in this Commonwealth, the board shall adopt a schedule by which applicants for slot machine, manufacturer and supplier licenses shall be filed, considered and resolved in accordance with the provisions of this part. In so doing, the board shall consider, approve, condition or deny the approval of all filed applications for manufacturer and supplier licenses as soon as administratively possible and at least three months prior to the board’s approval, conditioning or denial of the approval of any Category 1 license application pursuant to section 1315 (relating to conditional Category 1 licenses) or any other category of slot machine license pursuant to section 1301 (relating to authorized slot machine licenses). The board shall ensure

that an adequate number of suppliers have been licensed pursuant to section 1301 to meet market demand.

§ 1307. Number of slot machine licenses.

The board may license no more than seven Category 1 licensed facilities and no more than five Category 2 licensed facilities, as it may deem appropriate, as long as two, and not more, Category 2 licenses are located by the board within the city of the first class and that one, and not more, Category 2 licensed facility is located by the board within the city of the second class. The board may at its discretion increase the total number of Category 2 licensed facilities permitted to be licensed by the board by an amount not to exceed the total number of Category 1 licenses not applied for within five years following the effective date of this part. Except as permitted by section 1328 (relating to change in ownership or control of slot machine licensee), any Category 1 license may be reissued by the board at its discretion as a Category 2 license if an application for issuance of such license has not been made to the board. The board may license no more than two Category 3 licensed facilities.

§ 1308. Applications for license or permit.

(a) Applications.—An application for a license or permit to be issued by the board shall be submitted on a form and in a manner as shall be required by the board. In reviewing applications, the board shall confirm that all the applicable license or permit fees have been paid in accordance with this part.

(b) Completeness of applications.—The board shall not consider an incomplete application and shall notify the applicant in writing if an application is incomplete. An application shall be considered incomplete if it does not include all applicable fees and all information and accompanying documentation required by the board, including, but not limited to, a current tax lien certificate issued by the department at the time of filing the application. Any unpaid taxes identified on the tax lien certificate shall be paid before the application is considered complete. A notification of incompleteness shall state the deficiencies in the application that must be corrected prior to consideration of the merits of the application.

(c) Adverse litigation.—Notwithstanding any law to the contrary, the board and the commissions shall not consider any application for a license if the applicant or any person affiliated with or directly related to the applicant is a party in any ongoing civil proceeding in which the party is seeking to overturn or otherwise challenge a decision or order of the board or commissions pertaining to the approval, denial or conditioning of a license to conduct thoroughbred or harness horse race meetings respectively with pari-mutuel wagering or to operate slot machines. This subsection shall not be interpreted to affect the rights of applicants to seek judicial enforcement of mandatory obligations of the board as may be required by this part.

§ 1309. Slot machine license application.

(a) General requirements.—In addition to any other information required under this part or as may be required by the board, the application for any category of slot machine license shall include at a minimum:

(1) The name, address, photograph and handwriting exemplar of the applicant and of all directors and owners and key employees and their positions within the corporation or organization, as well as any additional financial information required by the board.

(2) The proposed location of the slot machine areas, if known.

(3) The number of slot machines requested.

(4) A current tax lien certificate issued by the department.

(5) In those instances where additional slot machines are being requested, the justification and explanation for the number and proposed location of the slot machine areas within the confines of the licensed facility.

(6) The current status of the horse or harness racing license issued pursuant to the Race Horse Industry Reform Act, if any.

(7) The details of any gaming, slot machine or casino license applied for, granted to or denied to the applicant by other jurisdictions where such form of gaming is legal, and the consent for the board to acquire copies of applications submitted or licenses issued in connection therewith.

(8) The details of any loans obtained from a financial institution or not obtained from a financial institution.

(9) The consent to conduct a background investigation by the board, the scope of which shall be determined by the board in its discretion consistent with the provisions of this part, and a release signed by all persons subject to the investigation of all information required to complete the investigation.

(10) Any other information determined to be appropriate by the board.

(b) Refusal to cooperate.—Any refusal to provide the information required under this section or to consent to a background investigation shall result in the immediate denial of a license or permit.

§ 1310. Slot machine license application character requirements.

(a) Application.—Every application for a slot machine license shall include such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Information shall include, without limitation, information pertaining to family, habits, character, reputation, criminal history background, business activities, financial affairs and business, professional and personal associates, covering at least the ten-year period immediately preceding the filing date of the application.

(b) Civil judgments and law enforcement agency information.—Each applicant shall notify the board of any civil judgments obtained against the applicant pertaining to antitrust or security regulation laws of the Federal Government, this Commonwealth or any other state, jurisdiction, province or

country. In addition, each applicant shall produce a letter of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letter of reference shall indicate that the law enforcement agencies do not have any pertinent information concerning the applicant or, if the law enforcement agency does have information pertaining to the applicant, shall specify the nature and content of that information. If no letters are received within 30 days of the request, the applicant may submit a statement under oath which is subject to the penalty for false swearing under 18 Pa.C.S. § 4903 (relating to false swearing) that the applicant is or was during the period the activities were conducted in good standing with the gaming or casino enforcement or control agency.

(c) Gaming or casino enforcement agency information.—If the applicant has held a gaming license in a jurisdiction where gaming activities are permitted, the applicant shall produce a letter of reference from the gaming or casino enforcement or control agency which shall specify the experiences of that agency with the applicant, the applicant's associates and the applicant's gaming operation. If no letters are received within 30 days of the request, the applicant may submit a statement under oath which is subject to the penalty for false swearing under 18 Pa.C.S. § 4903 that the applicant is or was during the period the activities were conducted in good standing with the gaming or casino enforcement or control agency.

§ 1311. Slot machine license application business entity requirements.

(a) Key employee requirement qualification.—No corporation or any other legal business entity shall be eligible to hold a slot machine license unless the following would individually be qualified for licensure as a key employee: each officer; each director; each person who directly or indirectly holds any beneficial interest or ownership of the securities in the entity; each person who in the opinion of the board has the ability to control the entity, has a controlling interest or elects a majority of the board of directors of that corporation or business entity, other than a banking or other licensed lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; each key employee; each lender, other than a banking or other licensed lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; each underwriter; each agent; each employee of the corporation or entity and each other person whom the board may consider appropriate for approval or qualification. The board may waive compliance with the provisions of this subsection on the part of a publicly traded corporation as to a person directly or indirectly holding ownership of securities of such corporation where the board is satisfied that the security holder is not significantly involved in the activities of the corporation and does not have the ability to control the corporation or elect one or more directors thereof.

(b) Slot machine license qualification requirement.—No corporation or any other legal business entity or other form of business organization which is a subsidiary shall be eligible to receive or hold a slot machine license unless each holding and intermediary company with respect thereto:

(1) if it is a corporation or other legal business entity, shall comply with the provisions of subsection (a) as if said holding or intermediary company were itself applying for a slot machine license. The board may waive compliance with the provisions of subsection (a) on the part of a publicly traded corporation which is a holding company as to any officer, director, lender, underwriter, agent or employee thereof, or person directly or indirectly holding a beneficial interest or ownership of the securities of such corporation, where the board is satisfied that such officer, director, lender, underwriter, agent or employee is not significantly involved in the activities of the corporate licensee and in the case of the security holder does not have the ability to control or possess a controlling interest in the holding company or elect one or more directors thereof; or

(2) if it is not a corporation, shall comply with the provisions of subsection (c) as if said company were itself applying for a slot machine license. The board may waive compliance with the provisions of subsection (c) on the part of a noncorporate business organization which is a holding company as to any person who directly or indirectly holds any beneficial interest or ownership in such company when the board is satisfied that such person does not have the ability to control the company.

(c) Noncorporate applicant requirement.—Any noncorporate applicant for a slot machine license shall provide the information required in this section in such form as may be required by the board. No such applicant shall be eligible to hold a slot machine license unless each person who directly or indirectly holds any beneficial interest or ownership in the applicant, or has the ability to control the applicant or whom the board may consider appropriate for approval or qualification, would individually be qualified for approval as a key employee pursuant to the provisions of this part.

§ 1312. Divestiture of disqualifying applicant.

In the event that any slot machine license application is not approved by the board based on a finding that an individual who is a principal or has an interest in the person applying for the license does not meet the character requirements of section 1310 (relating to slot machine license application character requirements) or any of the eligibility requirements under this part, or a person who purchases a controlling interest in a licensed gaming entity in violation of section 1328 (relating to change in ownership or control of slot machine licensee), the board may afford the individual the opportunity to completely divest his interest in the person, its affiliate, intermediary, subsidiary or holding company seeking the license and, after such divestiture, reconsider the person's or applicant's suitability for licensure in an expedited proceeding and may, after such proceeding, issue the person or applicant a slot machine license. The board shall approve the terms and conditions of any

divestiture under this section. Under no circumstances shall any divestiture be approved by the board if the compensation for the divested interest exceeds the cost of the interest.

§ 1313. Slot machine license application financial fitness requirements.

(a) Applicant financial information.—The board shall require each applicant for a slot machine license to produce the information, documentation and assurances concerning financial background and resources as the board deems necessary to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, its affiliate, intermediary, subsidiary or holding company, including, but not limited to, bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall in writing authorize the examination of all bank accounts and records as may be deemed necessary by the board.

(b) Financial backer information.—The board shall require each applicant for a slot machine license to produce the information, documentation and assurances as may be necessary to establish by clear and convincing evidence the integrity of all financial backers, investors, mortgagees, bondholders and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed. Any such banking or lending institution and institutional investors may be waived from the qualification requirements. A banking or lending institution or institutional investor shall, however, produce for the board upon request any document or information which bears any relation to the proposal submitted by the applicant or applicants. The integrity of the financial sources shall be judged upon the same standards as the applicant. Any such person or entity shall produce for the board upon request any document or information which bears any relation to the application. In addition, the applicant shall produce whatever information, documentation or assurances the board requires to establish by clear and convincing evidence the adequacy of financial resources.

(c) Applicant's ability to pay license fee.—The board shall require each applicant for a Category 1 or 2 slot machine license at the time of application to post a letter of credit or bond in the amount of \$50,000,000 to demonstrate the financial ability to pay the slot machine license fee as required in section 1209 (relating to slot machine license fee) if issued a slot machine license by the board. Each applicant for a Category 3 slot machine license at the time of application shall be required to post a letter of credit or bond in the amount of \$5,000,000 to demonstrate the financial ability to pay the Category 3 slot machine license fee as required in section 1305 (relating to Category 3 slot machine license) if issued a slot machine license by the board.

(d) Applicant's business experience.—The board shall require each applicant for a slot machine license to produce the information, documentation and assurances as the board may require to establish by clear and convincing evidence that the applicant has sufficient business ability and

experience to create and maintain a successful, efficient operation. Applicants shall produce the names of all proposed key employees and a description of their respective or proposed responsibilities as they become known.

(e) Applicant's operational viability.—In assessing the financial viability of the proposed licensed facility, the board shall make a finding, after review of the application, that the applicant is likely to maintain a financially successful, viable and efficient business operation and will likely be able to maintain steady level and growth of revenue to the Commonwealth pursuant to section 1403 (relating to establishment of State Gaming Fund and net slot machine revenue distribution). Notwithstanding any provision of this part to the contrary, an applicant that includes a commitment or promise to pay a slot machine license fee in excess of the amount provided in section 1209 or a distribution of terminal revenue in excess of the amounts provided in sections 1403, 1405 (relating to Pennsylvania Race Horse Development Fund) and 1407 (relating to Pennsylvania Gaming Economic Development and Tourism Fund) shall not be deemed a financially successful, viable or efficient business operation and shall not be approved for a slot machine license.

(f) Additional information.—In addition to other information required by this part, a person applying for a slot machine license shall provide the following information:

(1) The organization, financial structure and nature of all businesses operated by the person, including any affiliate, intermediary, subsidiary or holding companies, the names and personal employment and criminal histories of all officers, directors and key employees of the corporation; the names of all holding, intermediary, affiliate and subsidiary companies of the corporation; and the organization, financial structure and nature of all businesses operated by such holding, intermediary and subsidiary companies as the board may require, including names and personal employment and criminal histories of such officers, directors and principal employees of such corporations and companies as the board may require.

(2) The extent of securities held in the corporation by all officers, directors and underwriters and their remuneration in the form of salary, wages, fees or otherwise.

(3) Copies of all management and service contracts.

§ 1314. Alternative Category I licensing standards.

(a) Determination.—The board may determine whether the licensing standards of another jurisdiction within the United States or Canada in which an applicant, its affiliate, intermediary, subsidiary or holding company for a Category 1 slot machine license is similarly licensed are comprehensive and thorough and provide similar adequate safeguards as those required by this part. If the board makes that determination, it may issue a slot machine license to an applicant who holds a slot machine license in such other jurisdiction after conducting an evaluation of the information relating to the applicant from such other jurisdictions, as updated by the board, and evaluating other information related to the applicant received from that jurisdiction and other

jurisdictions where the applicant may be licensed, the board may incorporate such information in whole or in part into its evaluation of the applicant.

(b) **Abbreviated process.**—In the event an applicant for a slot machine license is licensed in another jurisdiction, the board may determine to use an alternate process requiring only that information determined by the board to be necessary to consider the issuance of a license, including financial viability of the licensee, to such an applicant. Nothing in this section shall be construed to waive any fees associated with obtaining a license through the normal application process.

§ 1315. Conditional Category 1 licenses.

(a) **Issuance.**—Notwithstanding any provisions of this part to the contrary, upon a finding that it is in the public interest, the board may issue a conditional slot machine license to a person who qualifies as a Category 1 license applicant upon payment of the fee pursuant to section 1209 (relating to slot machine license fee). This license may be issued after the completion of a background investigation of the applicant and each key employee and prior to full compliance by the applicant with section 1325 (relating to license or permit issuance).

(b) **Suitability; financial capability.**—An applicant shall provide the board with satisfactory evidence of suitability and financial capability of the applicant to be a slot machine licensee prior to the board granting the conditional license.

(c) **Complete application.**—No later than upon issuance of a conditional license, the applicant shall submit a complete application for a Category 1 license pursuant to section 1302 (relating to Category 1 slot machine license) as set forth by this part.

(d) **Expiration.**—If the holder of a conditional license does not receive board approval for the issuance of a Category 1 slot machine license under the standards set forth in this part within 18 months from the time set by the board pursuant to section 1301 (relating to authorized slot machine licenses) at which all applications are to be filed and deemed complete, the conditional license shall expire. Failure to meet the requirements of this part for licensure shall cause immediate forfeiture of the conditional slot machine license and revocation of authorization to operate slot machines at the licensed facility.

(e) **Return of fee.**—In the event of the expiration of a conditional license or the denial of an application for a slot machine license pursuant to section 1302, the applicant shall be entitled to a return of 85% of the conditional slot machine license fee it submitted with its application.

§ 1316. Bond for issuance of slot machine license.

Before any category of slot machine license is issued, the licensee shall post a bond in an amount not less than the sum of \$1,000,000, as set by the board, payable to the Commonwealth. The bond shall be used to guarantee that the slot machine licensee faithfully makes the payments, keeps books and records, makes reports and conducts operations in conformity with this part and rules, regulations and orders promulgated by the board. The bond shall

not be canceled by a surety on less than 30 days' notice in writing to the board. If a bond is canceled and the slot machine licensee fails to file a new bond with the board in the required amount on or before the effective date of cancellation, the licensee's license shall be revoked or suspended. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

§ 1317. Supplier and manufacturer licenses application.

(a) Application.—Any person seeking to provide slot machines or associated equipment to a slot machine licensee within this Commonwealth or to manufacture slot machines for use in this Commonwealth shall apply to the board for either a supplier or manufacturer license. No person, its affiliate, intermediary, subsidiary or holding company who has applied for or is a holder of a manufacturer or slot machine license shall be eligible to apply for or hold a supplier license. A supplier licensee shall establish a principle place of business in this Commonwealth within one year of issuance of its supplier license and maintain such during the period in which the license is held. No slot machine licensee shall enter into any sale, lease, contract or any other type of agreement providing slot machines, progressive slot machines, parts or associated equipment for use or play with any person other than a supplier licensed pursuant to this section. Slot monitoring systems, casino management systems, player tracking systems and wide-area progressive systems are excluded from any requirements that they be provided through a licensed supplier as set forth in this part.

(b) Requirements.—The application for a supplier or manufacturer license shall include, at a minimum:

(1) The name and business address of the applicant, the directors and owners of the applicant and a list of employees and their positions within the business, as well as any financial information required by the board.

(2) The consent to a background investigation of the applicant, its officers, directors, owners, key employees or other persons required by the board and a release to obtain any and all information necessary for the completion of the background investigation.

(3) The details of any equivalent license granted or denied by other jurisdictions where gaming activities are permitted and consent for the board to acquire copies of applications submitted or licenses issued in connection therewith.

(4) The type of goods and services to be supplied or manufactured and whether those goods and services will be provided through purchase, lease, contract or otherwise.

(5) Any other information determined by the board to be appropriate.

§ 1318. Occupation permit application.

(a) Application.—Any person who desires to be a gaming employee and has a bona fide offer of employment from a licensed gaming entity shall apply to the board for an occupation permit. A person may not be employed as a gaming employee unless and until that person holds an appropriate occupation

permit issued under this section. The board may promulgate regulations to reclassify a category of nongaming employees or gaming employees upon a finding that the reclassification is in the public interest and consistent with the objectives of this part.

(b) Requirements.—The application for an occupation permit shall include, at a minimum:

- (1) The name and home address of the person.
- (2) The previous employment history of the person.
- (3) The criminal history record of the person, as well as the person's consent¹ for the Pennsylvania State Police to conduct a background investigation.
- (4) A photograph and handwriting exemplar of the person.
- (5) Evidence of the offer of employment and the nature and scope of the proposed duties of the person, if known.
- (6) The details of any occupation permit or similar license granted or denied to the applicant in other jurisdictions and consent for the board to obtain copies of applications submitted or permits or licenses issued in connection therewith.
- (7) Any other information determined by the board to be appropriate.

(c) Prohibition.—No slot machine licensee may employ or permit any person under 18 years of age to render any service whatsoever in any area of its licensed facility at which slot machines are physically located.

§ 1319. Alternative manufacturer licensing standards.

(a) General rule.—The board may determine whether the licensing standards of another jurisdiction within the United States in which an applicant for a manufacturer license is similarly licensed are comprehensive and thorough and provide similar adequate safeguards as those required by this part. If the board makes that determination, it may issue a manufacturer license to an applicant who holds a similar manufacturer license in such other jurisdiction after conducting an evaluation of the information relating to the applicant from such other jurisdictions, as updated by the board, and evaluating other information related to the applicant received from that jurisdiction and other jurisdictions where the applicant may be licensed, the board may incorporate such information in whole or in part into its evaluation of the applicant.

(b) Abbreviated process.—In the event an applicant for a slot machine manufacturer license is licensed in another jurisdiction, the board may determine to use an alternate process requiring only that information determined by the board to be necessary to consider the issuance of a license, including financial viability of the licensee, to such an applicant. Nothing in this section shall be construed to waive any fees associated with obtaining a license through the normal application process.

¹“as their consent” in enrolled bill.

§ 1320. Slot machine testing and certification standards.

(a) Use of other state standards.—Until such time as the board establishes an independent testing and certification facility pursuant to subsection (b), the board may determine, at its discretion, whether the slot machine testing and certification standards of another jurisdiction within the United States in which an applicant for a manufacturer license is licensed are comprehensive and thorough and provide similar adequate safeguards as those required by this part. If the board makes that determination, it may permit a manufacturer through a licensed supplier as provided in section 1317 (relating to supplier and manufacturer licenses application) to deploy those slot machines which have met the slot machine testing and certification standards in such other jurisdictions without undergoing the full testing and certification process by a board-established independent facility. In the event slot machines of an applicant for a manufacturer license are licensed in such other jurisdiction, the board may determine to use an abbreviated process requiring only that information determined by the board to be necessary to consider the issuance of a slot machine certification to such an applicant. Alternatively, the board in its discretion may also rely upon the certification of a slot machine that has met the testing and certification standards of a board-approved private testing and certification facility until such time as the board establishes an independent testing and certification facility pursuant to subsection (b). Nothing in this section shall be construed to waive any fees associated with obtaining a license through the normal application process.

(b) Facility in Commonwealth.—Within three years immediately following the effective date of this part, the board shall establish and maintain an independent slot machine testing and certification facility. The cost for the establishment and operation of an independent slot machine testing and certification facility shall be paid by each licensed manufacturer in accordance with a schedule adopted by the board. The facility shall be made available to each slot machine manufacturer and supplier as determined by the board.

(c) Central control computer compatibility.—The board shall ensure that all slot machines certified and approved for use in this Commonwealth are compatible and comply with the central control computer and protocol specifications approved by the department.

§ 1321. Additional licenses and permits and approval of agreements.

(a) Requirements.—In addition to the requirements for a license or permit specifically set forth in this part, the board may require a license or permit, and set a fee for the same, for any key or gaming employee or any person who satisfies any of the following criteria:

- (1) The person transacts business within this Commonwealth with a slot machine licensee as a ticket purveyor, tour operator, operator of a bus

trip program or operator of any other type of travel program or promotional business related to slot machines. The board may also review, deny, order modification or approve, at its discretion, proposed tours, bus routes and travel programs.

(2) The person is presently not otherwise required to be licensed under this part and provides any goods, property or services, including, but not limited to, management contracts for compensation to a slot machine licensee at the licensed facility.

(b) Agreement.—Any agreement to conduct business within this Commonwealth between a person and a slot machine licensee relating to slot machines or associated equipment is subject to the approval of the board in accordance with rules and regulations promulgated by the board. Every agreement shall be in writing and shall include a provision for its termination without liability on the part of the slot machine licensee upon a finding by the board that the agreement is not approved or that it is terminated. Failure to expressly include this condition in the agreement is not a defense in any action brought under this section relating to the termination of the agreement.

§ 1322. Slot machine accounting controls and audits.

(a) Approval.—Except as otherwise provided by this part, each slot machine license applicant shall, in addition to obtaining a slot machine license, obtain approval from the board in consultation with the department of its proposed site plans and internal control systems and audit protocols prior to the installation and operation of slot machines at the licensed facility.

(b) Minimum requirements.—At a minimum, the applicant's or person's proposed internal controls and audit protocols shall:

(1) Safeguard its assets and revenues, including, but not limited to, the recording of cash and evidences of indebtedness related to the slot machines.

(2) Provide for reliable records, accounts and reports of any financial event that occurs in the operation of a slot machine, including reports to the board related to the slot machines.

(3) Ensure as provided in section 1323 (relating to central control computer system) that each slot machine directly provides or communicates all required activities and financial details to the central control computer as set by the board.

(4) Provide for accurate and reliable financial records.

(5) Ensure any financial event that occurs in the operation of a slot machine is performed only in accordance with the management's general or specific authorization, as approved by the board.

(6) Ensure that any financial event that occurs in the operation of a slot machine is recorded adequately to permit proper and timely reporting of gross revenue and the calculation thereof and of fees and taxes and to maintain accountability for assets.

(7) Ensure that access to assets is permitted only in accordance with management's specific authorization, as approved by the board.

(8) Ensure that recorded accountability for assets is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies.

(9) Ensure that all functions, duties and responsibilities are appropriately segregated and performed in accordance with sound financial practices by competent, qualified personnel.

(c) Internal control.—Each slot machine license applicant shall submit to the board and department, in such manner as the board shall require, a description of its administrative and accounting procedures in detail, including its written system of internal control. Each written system of internal control shall include:

(1) Records of direct and indirect ownership in the proposed slot machine licensee, its affiliate, intermediary, subsidiary or holding company.

(2) An organizational chart depicting appropriate segregation of functions and responsibilities.

(3) A description of the duties and responsibilities of each position shown on the organizational chart.

(4) A detailed narrative description of the administrative and accounting procedures designed to satisfy the requirements of this section.

(5) Record retention policy.

(6) Procedure to ensure that assets are safeguarded, including mandatory count procedures.

(7) A statement signed by the chief financial officer of the proposed licensed gaming entity or other competent person and the chief executive officer of the proposed licensed gaming entity or other competent person attesting that the officer believes, in good faith, that the system satisfies the requirements of this section.

(8) Any other item that the board may require in its discretion.

§ 1323. Central control computer system.

(a) General rule.—To facilitate the auditing and security programs critical to the integrity of slot machine gaming in this Commonwealth, the department shall have overall control of slot machines, and all slot machine terminals shall be linked, at an appropriate time to be determined by the department, to a central control computer under the control of the department and accessible by the board to provide auditing program capacity and individual terminal information as approved by the department and shall include real-time information retrieval and terminal activation and disabling programs. The central control computer selected and employed by the department shall not unduly limit or favor the participation of a vendor or manufacturer of a slot machine as a result of the cost or difficulty of implementing the necessary program modifications to communicate with and link to the central control

computer. The central control computer employed by the department shall provide:

(1) A fully operational Statewide slot machine control system that has the capability of supporting up to the maximum number of slot machines that could be permitted to be in operation under this part.

(2) The employment of a widely accepted gaming industry protocol to facilitate slot machine manufacturers' ability to communicate with the Statewide system.

(3) The delivery of a system that has the capability to support in-house and wide-area progressive slot machines as approved by the board.

(4) The delivery of a system that allows the slot machine licensee to install independent player tracking systems and cashless technology as approved by the board.

(5) The delivery of a system that does not alter the statistical awards of slot machine games as designed by the slot machine manufacturer and approved by the board.

(6) The delivery of a system that provides redundancy so that each component of the network will be capable of operating independently by the department if any component of the network, including the central control computer, fails or cannot be operated for any reason as determined by the department, and to assure that all transactional data is captured and secured. Costs associated with any computer system required by the department to operate at a licensed facility, whether independent or as part of the central control computer, shall be paid by the slot machine licensee. The computer system will be controlled by the department and accessible to the board.

(7) The ability to meet all reporting and control requirements as prescribed by the board and department.

(8) Any other capabilities as determined by the department in consultation with the board.

(b) Personal information.—Except as provided for in subsection (a)(4), the central control computer shall not provide for the monitoring or reading of personal or financial information concerning a patron of a slot machine licensee.

(c) Initial acquisition of central control computer.—Notwithstanding any other provision of law to the contrary and in order to facilitate the prompt implementation of this part, initial contracts entered into by the department for a central control computer, including any necessary computer hardware, software, licenses or related services shall not be subject to the provisions of 62 Pa.C.S. (relating to procurement). Contracts made pursuant to the provisions of this section shall not exceed five years.

(d) Resolution of contract disputes.—The process specified in 62 Pa.C.S. Ch. 17 Subch. B (relating to prelitigation resolution of controversies) shall be the sole means of resolution for controversies arising with respect to contracts executed under this section.

§ 1324. Protocol information.

The department shall provide, upon request and in advance of the operation of a central control computer, to a licensed slot machine supplier or manufacturer the comprehensive protocol specifications necessary to enable the respective slot machine suppliers or manufacturers of slot machine terminals to communicate with the department's central control computer for the purpose of transmitting auditing program information and for activating and disabling of slot machine terminals. Manufacturers and suppliers shall be afforded a reasonable period of time to comment upon the protocol in advance of the operation of the central control computer. Once adopted, the department shall provide suppliers and manufacturers a reasonable period of time to review and comment on any changes and on documentation data for all proposed changes to the original protocol specifications of the central control computer. Manufacturers and suppliers shall be afforded a reasonable period of time to comment upon and employ all proposed changes to the protocol in advance of its implementation and operation with the central control computer. Notwithstanding the foregoing, the department may expedite changes in the protocol as may be needed to ensure the integrity and stability of the entire system.

§ 1325. License or permit issuance.

(a) Issuance.—In addition to any other criteria provided under this part, any licensed gaming entity, supplier, manufacturer, gaming employee or other person that the board approves as qualified to receive a license or a permit under this part shall be issued a license or permit upon the payment of any fee required and upon the fulfillment of any conditions required by the board or provided for in this part. Nothing contained in this part is intended or shall be construed to create an entitlement to a license or permit by any person. The board shall in its sole discretion issue, renew, condition or deny a slot machine license based upon the requirements of this part and whether¹ the issuance of a license will enhance tourism, economic development or job creation is in the best interests of the Commonwealth and advances the purposes of this part.

(b) Eligibility.—A license or permit shall not be granted or renewed unless the board finds that the applicant satisfies all of the following criteria:

(1) The applicant has developed and implemented or agreed to develop and implement a diversity plan to assure that all persons are accorded equality of opportunity in employment and contracting by the applicant, its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

(2) The applicant in all other respects is found suitable consistent with the laws of this Commonwealth and is otherwise qualified to be issued a license or permit.

¹“part, whether” in enrolled bill.

(c) Additional requirements.—In addition to the eligibility requirements otherwise provided in this part, the board may also take into account the following factors when considering an application for a slot machine license:

(1) The location and quality of the proposed facility, including, but not limited to, road and transit access, parking and centrality to market service area.

(2) The potential for new job creation and economic development which will result from granting a license to an applicant.

(3) The applicant's good faith plan to recruit, train and upgrade diversity in all employment classifications in the facility.

(4) The applicant's good faith plan for enhancing the representation of diverse groups in the operation of its facility through the ownership and operation of business enterprises associated with or utilized by its facility or through the provision of goods or services utilized by its facility and through the participation in the ownership of the applicant.

(5) The applicant's good faith effort to assure that all persons are accorded equality of opportunity in employment and contracting by it and any contractors, subcontractors, assignees, lessees, agents, vendors and suppliers it may employ directly or indirectly.

(6) The history and success of the applicant in developing tourism facilities ancillary to gaming development if applicable to the applicant.

(7) The degree to which the applicant presents a plan for the project which will likely lead to the creation of quality, living-wage jobs and full-time permanent jobs for residents of this Commonwealth generally and for residents of the host political subdivision in particular.

(8) The record of the applicant and its developer in meeting commitments to local agencies, community-based organizations and employees in other locations.

(9) The degree to which potential adverse effects which might result from the project, including costs of meeting the increased demand for public health care, child care, public transportation, affordable housing and social services, will be mitigated.

(10) The record of the applicant and its developer regarding compliance with:

(i) Federal, State and local discrimination, wage and hour, disability and occupational and environmental health and safety laws; and

(ii) State and local labor relations and employment laws.

(11) The applicant's record in dealing with its employees and their representatives at other locations.

§ 1326. License renewals.

(a) Renewal.—All permits and licenses issued under this part unless otherwise provided shall be subject to renewal on an annual basis upon the application of the holder of the permit or license submitted to the board at least 60 days prior to the expiration of the permit or license. The application for renewal shall include an update of the information contained in the initial

and any prior renewal applications and the payment of any renewal fee required by this part. A permit or license for which a completed renewal application and fee, if required, has been received by the board will continue in effect unless and until the board sends written notification to the holder of the permit or license that the board has denied the renewal of such permit or license.

(b) Revocation or failure to renew.—In addition to any other sanctions the board may impose under this part, the board may at its discretion suspend, revoke or deny renewal of any permit or license issued under this part if it receives any information from any source that the applicant or any of its officers, directors, owners or key employees is in violation of any provision of this part, that the applicant has furnished the board with false or misleading information or that the information contained in the applicant's initial application or any renewal application is no longer true and correct. In the event of a revocation or failure to renew, the applicant's authorization to conduct the previously approved activity shall immediately cease, and all fees paid in connection therewith shall be deemed to be forfeited. In the event of a suspension, the applicant's authorization to conduct the previously approved activity shall immediately cease until the board has notified the applicant that the suspension is no longer in effect.

§ 1327. Nontransferability of licenses.

A license or permit issued by the board is a grant of the privilege to conduct a business in this Commonwealth. Except as permitted by section 1328 (relating to change in ownership or control of slot machine licensee), a license or permit granted or renewed pursuant to this part shall not be sold, transferred or assigned to any other person, nor shall a licensee or permittee pledge or otherwise grant a security interest in or lien on the license or permit. Nothing contained in this part is intended or shall be construed to create in any person an entitlement to a license. The board has the sole discretion to issue, renew, condition or deny the issuance of a slot machine license based upon the purposes and requirements of this part.

§ 1328. Change in ownership or control of slot machine licensee.

(a) Notification and approval.—

(1) A slot machine licensee shall notify the board prior to or immediately upon becoming aware of any proposed or contemplated change of ownership of the slot machine licensee by a person or group of persons acting in concert which involves any of the following:

(i) More than 5% of a slot machine licensee's securities or other ownership interests.

(ii) More than 5% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the licensee.

(iii) The sale other than in the ordinary course of business of a licensee's assets.

(iv) Any other transaction or occurrence deemed by the board to be relevant to license qualifications.

(2) Notwithstanding the provisions of paragraph (1), a slot machine licensee shall not be required to notify the board of any acquisition by an institutional investor pursuant to paragraph (1)(i) or (ii) if the institutional investor holds less than 10% of the securities or other ownership interests referred to in paragraph (1)(i) or (ii), the securities or interests are publicly traded securities and its holdings of such securities were purchased for investment purposes only and the institutional investor files with the board a certified statement to the effect that it has no intention of influencing or affecting, directly or indirectly, the affairs of the licensee, provided, however, that it shall be permitted to vote on matters put to the vote of the outstanding security holders. Notice to the board and board approval shall be required prior to completion of any proposed or contemplated change of ownership of a slot machine licensee that meets the criteria of this section.

(b) Qualification of purchaser of slot machine licensee; change of control.—The purchaser of the assets, other than in the ordinary course of business, of any slot machine licensee shall independently qualify for a license in accordance with this part and shall pay the license fee as required by section 1209 (relating to slot machine license fee). A change in control of any slot machine licensee shall require that the slot machine licensee independently qualify for a license in accordance with this part, and the slot machine licensee shall pay a new license fee as required by section 1209, except as otherwise required by the board pursuant to this section.

(c) Change in control defined.—For purposes of this section, a change in control of a slot machine licensee shall mean the acquisition by a person or group of persons acting in concert of more than 20% of a slot machine licensee's securities or other ownership interests, with the exception of any ownership interest of the person that existed at the time of initial licensing and payment of the initial slot machine license fee, or more than 20% of the securities or other ownership interests of a corporation or other form of business entity which owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the licensee.

(d) Fee reduction.—The board may in its discretion eliminate the need for qualification and/or proportionately reduce, but not eliminate, the new license fee otherwise required pursuant to this section in connection with a change of control of a licensee, depending upon the type of transaction, the relevant ownership interests and changes thereto resulting from the transaction and other considerations deemed relevant by the board.

(e) License revocation.—Failure to comply with this section may cause the license issued under this part to be revoked or suspended by the board unless the purchase of the assets or the change in control that meets the criteria of this section has been independently qualified in advance by the board and any required license fee has been paid.

§ 1329. Nonportability of slot machine license.

Each slot machine license shall only be valid for the specific physical location within the municipality and county for which it was originally granted. No slot machine licensee shall be permitted to move or relocate the physical location of the licensed facility without board approval for good cause shown.

§ 1330. Multiple slot machine license prohibition.

No slot machine licensee, its affiliate, intermediary, subsidiary or holding company may possess an ownership or financial interest that is greater than 33.3% of another slot machine licensee or person eligible to apply for a Category 1 license, its affiliate, intermediary, subsidiary or holding company. The board shall approve the terms and conditions of any divestiture under this section. Under no circumstances shall any such divestiture be approved by the board if the compensation for the divested interest in a person eligible to apply for a Category 1 license exceeds the greater of the original cost of the interest, the book value of the interest or an independently assessed value of the interest one month prior to the effective date of this part and, in the case of a person eligible to apply for a Category 1 license, unless the person acquiring the divested interest is required to continue conducting live racing at the location where live racing is currently being conducted in accordance with section 1303 (relating to additional Category 1 slot machine license requirements) and be approved for a Category 1 slot machine license. No such slot machine license applicant shall be issued a slot machine license until the applicant has completely divested its ownership or financial interest that is in excess of 33.3% in another slot machine licensee or person eligible to apply for a Category 1 license, its affiliate, intermediary, subsidiary or holding company.

§ 1331. Duty of licensees, key employees and gaming employees.

Any licensee, key employee or gaming employee shall have the duty to:

- (1) provide any assistance or information required by the board or the Pennsylvania State Police and to cooperate in any inquiry, investigation or hearing;
- (2) consent to inspections, searches and seizures;
- (3) inform the board of any actions which they believe would constitute a violation of this part; and
- (4) inform the board of any arrests for any violations of offenses enumerated under 18 Pa.C.S. (relating to crimes and offenses).

CHAPTER 14
REVENUES

Sec.

1401. Slot machine licensee deposits.

1402. Gross terminal revenue deductions.

1403. Establishment of State Gaming Fund and net slot machine revenue distribution.

1404. Distributions from licensee's revenue receipts.

1405. Pennsylvania Race Horse Development Fund.

1406. Distributions from Pennsylvania Race Horse Development Fund.

1407. Pennsylvania Gaming Economic Development and Tourism Fund.

1408. Transfers from State Gaming Fund.

1409. Property Tax Relief Fund.

§ 1401. Slot machine licensee deposits.

(a) Account established.—There is established within the State Treasury an account for each slot machine licensee for the deposit of sums under this section.

(b) Initial deposit of funds.—Not later than two business days prior to the commencement of slot machine operations by a slot machine licensee, the slot machine licensee shall deposit and maintain the sum of \$5,000,000 in its account to guarantee the payment of funds to the Commonwealth under this part and as security for its obligations under section 1405 (relating to Pennsylvania Race Horse Development Fund).

(c) Weekly deposits.—Each slot machine licensee shall deposit funds into its account on a weekly basis equal to the amounts deducted by the department under section 1402 (relating to gross terminal revenue deductions) and for reimbursement of any funds expended due to the slot machine licensee's failure to comply with its obligations under section 1405. The department shall notify each licensee of the amounts deducted. If at any time the amount held in the account attributable to a slot machine licensee is not sufficient to make the payments required of the licensee under section 1402 and for reimbursement of any funds expended due to the slot machine licensee's failure to comply with its obligations under section 1405, the department shall notify the slot machine licensee, and the slot machine licensee shall immediately deposit necessary funds into the account as directed by the department.

(d) Return of funds.—The funds deposited into its account shall not be returned to a slot machine licensee unless the slot machine licensee ceases conducting business under its license and relinquishes all rights to do so in the future. In that case, the balance of funds in the account attributable to such licensee, minus any unpaid amounts due and payable to the Commonwealth under this part or due and payable under section 1405, shall be returned to the licensee.

§ 1402. Gross terminal revenue deductions.

(a) Deductions.—After determining the appropriate assessments for each slot machine licensee, the department shall deduct the following costs, expenses or payments from each account established under section 1401 (relating to slot machine licensee deposits):

(1) The costs and expenses to be incurred by the department in administering this part at each slot machine licensee's licensed facility

based upon a budget submitted by the department to and approved by the board.

(2) The other costs and expenses to be incurred by the department in administering this part based upon a budget submitted by the department to and approved by the board.

(3) Sums necessary to repay any loans made by the General Fund to the department in connection with carrying out its responsibilities under this part, including the costs of the initial acquisition of the central control computer and any accessories or associated equipment.

(4) The costs and expenses to be incurred by the Pennsylvania State Police and the Office of Attorney General and not otherwise reimbursed under this part in carrying out their respective responsibilities under this part based upon a budget submitted by the Pennsylvania State Police and the Attorney General to and approved by the board.

(5) Sums necessary to repay any loans made by the General Fund to the Pennsylvania State Police in connection with carrying out its responsibilities under this part.

(6) The costs and expenses to be incurred by the board in carrying out its responsibilities under this part based upon a budget approved by the board.

(7) Sums necessary to repay any loans made by the General Fund to the board in connection with carrying out its responsibilities under this part.

(b) Deferral of assessment.—Notwithstanding any other provision of law to the contrary, the board may defer assessing slot machine licensees for repayment of loans from the General Fund under this section until all slot machine licenses have been issued and all licensed gaming entities have commenced the operation of slot machines.

§ 1403. Establishment of State Gaming Fund and net slot-machine revenue distribution.

(a) Fund established.—There is hereby established the State Gaming Fund within the State Treasury.

(b) Slot machine tax.—The department shall determine and each slot machine licensee shall pay a daily tax of 34% and a local share assessment of 4% of its daily gross terminal revenue from the slot machines in operation at its facility into the fund.

(c) Transfers and distributions.—The department shall:

(1) Transfer the slot machine tax and assessment imposed in subsection (b) to the fund.

(2) From the local share assessment established in subsection (b), make quarterly distributions among the counties hosting a licensed facility in accordance with the following schedule:

(i) If the licensed facility is a Category 1 licensed facility that is located at a harness racetrack and the county, including a home rule county, in which the licensed facility is located is:

(A) A county of the first class: 4% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility. Notwithstanding any other provision to the contrary, funds from licensed gaming entities located within a county of the first class shall not be distributed outside of a county of the first class.

(B) A county of the second class: 2% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility.

(C) A county of the second class A: 1% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility. An additional 1% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility for the purpose of municipal grants within the county in which the licensee is located.

(D) A county of the third class: 2% of the gross terminal revenue from each such licensed facility shall be deposited into a restricted account established in the Department of Community and Economic Development to be used exclusively for grants for health, safety and economic development projects to municipalities within the county where the licensed facility is located. Municipalities that are contiguous to the municipality hosting such licensed facility shall be given priority by the Department of Community and Economic Development in the award of such grants.

(E) A county of the fourth class: 2% of the gross terminal revenue from each such licensed facility shall be deposited into a restricted account established in the Department of Community and Economic Development to be used exclusively for grants to the county, to economic development authorities or organizations within the county or redevelopment authorities within the county for grants for economic development projects, job training, community improvement projects, other projects in the public interest and reasonable administrative costs. Notwithstanding the provisions of the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act, grants made under this clause may be utilized as local matching funds for other grants or loans from the Commonwealth.

(F) Counties of the fifth through eighth classes: 2% of the gross terminal revenue from each such licensed facility shall be deposited into a restricted account established in the Department of Community and Economic Development to be used exclusively for grants to the county.

(G) Any county not specifically enumerated in clauses (A) through (F), 2% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility.

(ii) If the licensed facility is a Category 1 licensed facility and is located at a thoroughbred racetrack and the county in which the licensed facility is located is:

(A) A county of the first class: 4% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility. Notwithstanding any other provision to the contrary, funds from licensed gaming entities located within the county of the first class shall not be distributed outside of a county of the first class.

(B) A county of the second class: 2% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility.

(C) A county of the second class A: 1% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility. An additional 1% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility for the purpose of municipal grants within the county in which the licensee is located.

(D) A county of the third class: 1% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility. An additional 1% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility for the purpose of municipal grants within the county in which the licensee is located.

(E) A county of the fourth class: 2% of the gross terminal revenue from each such licensed facility shall be deposited into a restricted account established in the Department of Community and Economic Development to be used exclusively for grants to the county, to economic development authorities or organizations within the county or redevelopment authorities within the county for grants for economic development projects, community improvement projects, job training, other projects in the public interest and reasonable administrative costs. Notwithstanding the Capital Facilities Debt Enabling Act, grants made under this clause may be utilized as local matching funds for other grants or loans from the Commonwealth.

(F) Counties of the fifth through eighth classes: 2% of the gross terminal revenue from each such licensed facility shall be deposited into a restricted account established in the Department of Community and Economic Development to be used exclusively for grants to the county.

(G) Any county not specifically enumerated in clauses (A) through (F), 2% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility.

(iii) If the facility is a Category 2 licensed facility and if the county in which the licensed facility is located is:

(A) A county of the first class: 4% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility. Notwithstanding any other provision to the contrary, funds from licensed gaming entities located within the county of the first class shall not be distributed outside of a county of the first class.

(B) A county of the second class: 2% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility.

(C) A county of the second class A: 1% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility. An additional 1% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility for the purpose of municipal grants within the county in which the licensee is located.

(D) A county of the third class: 1% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility. An additional 1% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility for the purpose of municipal grants within the county in which the licensee is located.

(E) A county of the fourth class: 2% of the gross terminal revenue from each such licensed facility shall be deposited into a restricted account established in the Department of Community and Economic Development to be used exclusively for grants to the county, to economic development authorities or organizations within the county or redevelopment authorities within the county for grants for economic development projects, community improvement projects, job training, other projects in the public interest and reasonable administrative costs. Notwithstanding the Capital Facilities Debt Enabling Act, grants made under this clause may be utilized as local matching funds for other grants or loans from the Commonwealth.

(F) Counties of the fifth through eighth classes: 2% of the gross terminal revenue from each such licensed facility shall be deposited into a restricted account established in the Department of Community and Economic Development to be used exclusively for grants to the county, to contiguous counties, to economic development authorities or organizations within the county or contiguous counties or redevelopment authorities within the county or contiguous counties for grants for economic development projects, community improvement projects, other projects in the public interest and reasonable administrative costs. Notwithstanding the Capital Facilities Debt Enabling Act, grants made under this

clause may be utilized as local matching funds for other grants or loans from the Commonwealth.

(G) Any county not specifically enumerated in clauses (A) through (F), 2% of the gross terminal revenue to the county hosting the licensed facility from each such licensed facility.

(iv) If the facility is a Category 3 licensed facility, 2% of the gross terminal revenue from each such licensed facility shall be deposited into a restricted account established in the Department of Community and Economic Development to be used exclusively for grants to the county, to economic development authorities or organizations within the county or redevelopment authorities within the county for grants for economic development projects and community improvement projects.

(v) Unless otherwise specified, for the purposes of this paragraph money designated for municipal grants within a county, other than a county of the first class, in which a licensed facility is located shall be used to fund grants to the municipality in which the licensed facility is located, to the county in which the licensed facility is located and to the municipalities which are contiguous to the municipality in which the licensed facility is located and which are located within the county in which the licensed facility is located. Grants shall be administered by the county through its economic development or redevelopment authority in which the licensed facility is located. Grants shall be used to fund the costs of human services, infrastructure improvements, facilities, emergency services, health and public safety expenses associated with licensed facility operations. If at the end of a fiscal year uncommitted funds exist, the county shall pay to the economic development or redevelopment authority of the county in which the licensed facility is located the uncommitted funds.

(vi) If the licensed facility is located in more than one county, the amount available shall be distributed on a pro rata basis determined by the percentage of acreage located in each county to the total acreage of all counties occupied by the licensed facility.

(vii) The distributions provided in this paragraph shall be based upon county classifications in effect on the effective date of this section. Any reclassification of counties as a result of a Federal decennial census or of a State statute shall not apply to this subparagraph.

(viii) If any provision of this paragraph is found to be unenforceable for any reason, the distribution provided for in the unenforceable provision shall be made to the county in which the licensed facility is located for the purposes of grants to municipalities in that county, including municipal grants as specified in subparagraph (v).

(ix) Nothing in this paragraph shall prevent any of the above counties from entering into intergovernmental cooperative agreements with other jurisdictions for sharing this money.

(3) From the local share assessment established in subsection (b), make quarterly distributions among the municipalities, including home rule municipalities, hosting a licensed facility in accordance with the following schedule:

(i) To a city of the second class hosting a licensed facility or facilities, other than a Category 3 licensed facility, 2% of the gross terminal revenue or \$10,000,000 annually, whichever is greater, of all licensed facilities located in that city. In the event that the revenues generated by the 2% do not meet the \$10,000,000 minimum specified in this paragraph, the licensed gaming entity operating the licensed facility or facilities in the city shall remit the difference to the municipality.

(ii) To a city of the second class A hosting a licensed facility or facilities, other than a Category 3 licensed facility, 2% of the gross terminal revenue or \$10,000,000 annually, whichever is greater, of all licensed facilities located in that city subject, however, to the budgetary limitation in this subparagraph. The amount allocated to the designated municipalities shall not exceed 50% of their total budget for fiscal year 2003-2004, adjusted for inflation in subsequent years by an amount not to exceed an annual cost-of-living adjustment calculated by applying the percentage change in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area, for the most recent 12-month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics, immediately prior to the date the adjustment is due to take effect. Any remaining moneys shall be distributed in accordance with paragraph (2) based upon the county where the licensed facility or facilities is located. In the event that the revenues generated by the 2% do not meet the \$10,000,000 minimum specified in this subparagraph, the licensed gaming entity operating the licensed facility or facilities in the city shall remit the difference to the municipality.

(iii) To a city of the third class hosting a licensed facility or facilities, other than a Category 3 licensed facility, 2% of the gross terminal revenue or \$10,000,000 annually, whichever is greater, of all licensed facilities located in that city subject, however, to the budgetary limitation in this subparagraph. However, the foregoing limitations shall not apply, notwithstanding any provision to the contrary, if the licensed facility or facilities have executed a written agreement with the city prior to the effective date of this part to provide additional compensation to the city in excess of the difference between 2% of the gross terminal revenue and \$10,000,000. The amount allocated to the designated municipalities shall not exceed 50% of their total budget for fiscal year 2003-2004, adjusted for inflation in subsequent years by an amount not to exceed an annual cost-of-living adjustment calculated by

applying the percentage change in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area, for the most recent 12-month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics, immediately prior to the date the adjustment is due to take effect. Any remaining moneys shall be distributed in accordance with paragraph (2) based upon the county where the licensed facility or facilities is located. In the event that the revenues generated by the 2% do not meet the \$10,000,000 minimum specified in this subparagraph, the licensed gaming entity operating the licensed facility or facilities in the city shall remit the difference to the municipality.

(iv) To a township of the first class hosting a licensed facility or facilities, other than a Category 3 licensed facility, 2% of the gross terminal revenue or \$10,000,000 annually, whichever is greater, of all licensed facilities located in the township subject, however, to the budgetary limitation in this subparagraph. The amount allocated to the designated municipalities shall not exceed 50% of their total budget for fiscal year 2003-2004, adjusted for inflation in subsequent years by an amount not to exceed an annual cost-of-living adjustment calculated by applying the percentage change in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area, for the most recent 12-month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics, immediately prior to the date the adjustment is due to take effect. Any remaining money shall be distributed in accordance with paragraph (2) based upon the county where the licensed facility or facilities is located. In the event that the revenues generated by the 2% do not meet the \$10,000,000 minimum specified in this subparagraph, the licensed gaming entity operating the licensed facility or facilities in the township shall remit the difference to the municipality.

(v) To a township of the second class hosting a licensed facility or facilities, other than a Category 3 licensed facility, 2% of the gross terminal revenue or \$10,000,000 annually, whichever is greater, of all licensed facilities located in the township subject, however, to the budgetary limitation in this subparagraph. The amount allocated to the designated municipalities shall not exceed 50% of their total budget for fiscal year 2003-2004, adjusted for inflation in subsequent years by an amount not to exceed an annual cost-of-living adjustment calculated by applying the percentage change in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area, for the most recent 12-month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics, immediately prior to the date the adjustment

is due to take effect. Any remaining money shall be distributed in accordance with paragraph (2) based upon the county where the licensed facility or facilities is located. In the event that the revenues generated by the 2% do not meet the \$10,000,000 minimum specified in this subparagraph, the licensed gaming entity operating the licensed facility or facilities in the township shall remit the difference to the municipality.

(vi) To a borough hosting a licensed facility or facilities, other than a Category 3 licensed facility, 2% of the gross terminal revenue or \$10,000,000 annually, whichever is greater, of all licensed facilities located in that borough subject, however, to the budgetary limitation in this subparagraph. The amount allocated to the designated municipalities shall not exceed 50% of their total budget for fiscal year 2003-2004, adjusted for inflation in subsequent years by an amount not to exceed an annual cost-of-living adjustment calculated by applying the percentage change in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area, for the most recent 12-month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics, immediately prior to the date the adjustment is due to take effect. Any remaining money shall be distributed in accordance with paragraph (2) based upon the county where the licensed facility or facilities is located. In the event that the revenues generated by the 2% do not meet the \$10,000,000 minimum specified in this subparagraph, the licensed gaming entity operating the licensed facility or facilities in the borough shall remit the difference to the municipality.

(vii) To an incorporated town hosting a licensed facility or facilities, other than a Category 3 licensed facility, 2% of the gross terminal revenue or \$10,000,000 annually, whichever is greater, of all licensed facilities located in the town subject, however, to the budgetary limitation in this subparagraph. The amount allocated to the designated municipalities shall not exceed 50% of their total budget for fiscal year 2003-2004, adjusted for inflation in subsequent years by an amount not to exceed an annual cost-of-living adjustment calculated by applying the percentage change in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area, for the most recent 12-month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics, immediately prior to the date the adjustment is due to take effect. Any remaining money shall be distributed in accordance with paragraph (2) based upon the county where the licensed facility or facilities is located. In the event that the revenues generated by the 2% do not meet the \$10,000,000 minimum specified in this subparagraph,

the licensed gaming entity operating the licensed facility or facilities in the town shall remit the difference to the municipality.

(viii) To a municipality of any class hosting a Category 3 facility, 2% of the gross terminal revenue from the Category 3 licensed facility located in the municipality, subject, however, to the budgetary limitation in this subparagraph. The amount allocated to the designated municipalities shall not exceed 50% of their total budget for fiscal year 2003-2004, adjusted for inflation in subsequent years by an amount not to exceed an annual cost-of-living adjustment calculated by applying the percentage change in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area, for the most recent 12-month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics, immediately prior to the date the adjustment is due to take effect. Any remaining money shall be distributed in accordance with paragraph (2) based upon the county where the licensed facility or facilities is located.

(ix) Any municipality not specifically enumerated in subparagraphs (i) through (viii), 2% of the gross terminal revenue to the municipality hosting the licensed facility from each such licensed facility.

(x) If the licensed facility is located in more than one municipality, the amount available shall be distributed on a pro rata basis determined by the percentage of acreage located in each municipality to the total acreage of all municipalities occupied by the licensed facility.

(xi) If the licensed facility is located at a resort which is also an incorporated municipality, such municipality shall not be eligible to receive any distribution under this paragraph. The distribution it would have otherwise been entitled to under this paragraph shall instead be distributed in accordance with paragraph (2) based upon the county where the licensed facility is located.

(xii) The distributions provided in this paragraph shall be based upon municipal classifications in effect on the effective date of this section. For the purposes of this paragraph, any reclassification of municipalities as a result of a Federal decennial census or of a State statute shall not apply to this paragraph.

(xiii) If any provision of this paragraph is found to be unenforceable for any reason, the distribution provided for in such unenforceable provision shall be made to the municipality in which the licensed facility is located.

(xiv) Nothing in this paragraph shall prevent any of the above municipalities from entering into intergovernmental cooperative agreements with other jurisdictions for sharing this money.

(xv) Notwithstanding any other law, agreement or provision in this part to the contrary, all revenues provided, directed or earmarked under this section to or for the benefit of a city of the second class in which an intergovernmental cooperation authority has been established and is in existence pursuant to the act of February 12, 2004 (P.L.73, No.11), known as the Intergovernmental Cooperation Authority Act for Cities of the Second Class, shall be directed to and under the exclusive control of such intergovernmental cooperation authority to be used:

(A) to reduce the debt of the second class city;

(B) to increase the level of funding of the municipal pension funds of the second class city; or

(C) for any other purposes as determined to be in the best interest of the second class city by such intergovernmental cooperation authority. Such revenues shall not be directed to or under the control of such city of the second class or any coordinator appointed pursuant to the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, for such city of the second class.

§ 1404. Distributions from licensee's revenue receipts.

For holders of Category 1 licenses, an amount not less than \$5,000,000 over the initial five-year period following the initial issuance of a Category 1 slot machine license and an amount not less than \$250,000 nor more than \$1,000,000 per year for five years thereafter shall be deposited by each licensee into a segregated account and used for improvement and maintenance of the backside area and related buildings and structures at the racetrack at which the licensee operates. The licensed racing entity designee and the designee of the recognized horsemen's organization at each racetrack shall jointly consider the appropriate amount of the funds and how the money shall be spent at the racetrack. Disputes involving the amount and expenditure of funds under this section shall be resolved by the State Horse Racing Commission or the State Harness Racing Commission, whichever is appropriate, which shall oversee the use of these funds. Notwithstanding other provisions of this section, a licensed racing entity that has not previously conducted live racing and is constructing a new racetrack, backside area and related buildings and structures that can establish to the satisfaction of the board that the licensed racing entity has spent no less than \$5,000,000 in the construction of the new racetrack's backside area, related buildings and structures shall not be subject to the expenditures required by this section until the tenth year after the completion of such construction at the new racetrack. The board may extend the time frame for distributions under this section for a newly constructed racetrack for up to an additional two years if, upon inspection, either the State Horse Racing Commission or the State Harness Racing Commission, whichever is applicable, determines that the physical condition of the backside area and related buildings and structures of

the racetrack is sufficient to protect the health and safety of backside employees.

§ 1405. Pennsylvania Race Horse Development Fund.

(a) Fund established.—There is hereby established a Pennsylvania Race Horse Development Fund within the State Treasury.

(b) Pennsylvania race horse improvement assessment.—Each active and operating licensed gaming entity shall pay a daily assessment to the Pennsylvania Race Horse Development Fund as determined by the department. Subject to the daily assessment cap established under subsection (c), the licensed gaming entity's assessment shall be a percentage of each licensed gaming entity's gross terminal revenue, equal to an amount calculated as "A" multiplied by "B", with "A" being equal to each licensed gaming entity's gross terminal revenue for that day divided by the total gross terminal revenue for that day from all licensed gaming entities, and "B" being equal to 18% of that day's gross terminal revenue for all active and operating Category 1 licensees conducting live racing.

(c) Daily assessment cap.—If the resulting daily assessment for a licensed gaming entity exceeds 12% of that licensed gaming entity's gross terminal revenue for the day, the licensed gaming entity shall pay a daily assessment of 12% of its gross terminal revenue for that day.

(d) Distributions.—In accordance with section 1406 (relating to distributions from Pennsylvania Race Horse Development Fund), the department shall make distributions from the Pennsylvania Race Horse Development Fund to each of the active and operating Category 1 licensees conducting live racing.

§ 1406. Distributions from Pennsylvania Race Horse Development Fund.

(a) Distributions.—Funds from the Pennsylvania Race Horse Development Fund shall be distributed to each active and operating Category 1 licensee conducting live racing in the following manner:

(1) An amount equal to 18% of the daily gross terminal revenue of each Category 1 licensee shall be distributed to each active and operating Category 1 licensee conducting live racing unless the daily assessments are affected by the daily assessment cap provided for in section 1405(c) (relating to Pennsylvania Race Horse Development Fund). In cases in which the daily assessment cap affects daily assessments, the distribution to each active and operating Category 1 licensee conducting live racing for that day shall be a percentage of the total daily assessments paid into the Pennsylvania Race Horse Development Fund for that day equal to the gross terminal revenue of each active and operating Category 1 licensee conducting live racing for that day divided by the total gross terminal revenue of all active and operating Category 1 licensees conducting live racing for that day. The distributions to licensed racing entities from the Pennsylvania Race Horse Development Fund shall be allocated as follows:

(i) Eighty percent to be deposited weekly into a separate, interest-bearing purse account to be established by and for the benefit of the

horsemen. The earned interest on the account shall be credited to the purse account. Licensees shall combine these funds with revenues from existing purse agreements to fund purses for live races consistent with those agreements with the advice and consent of the horsemen.

(ii) From licensees that operate at thoroughbred tracks, 16% to be deposited on a monthly basis into the Pennsylvania Breeding Fund as defined in section 223 of the Race Horse Industry Reform Act. From licensees that operate at standardbred tracks, 8% to be deposited on a monthly basis in the Pennsylvania Sire Stakes Fund as defined in section 224 of the Race Horse Industry Reform Act and 8% to be deposited on a monthly basis into a restricted account in the State Racing Fund to be known as the Pennsylvania Standardbred Breeders Development Fund. The State Harness Racing Commission shall, in consultation with the Secretary of Agriculture by rule or by regulation, adopt a standardbred breeders program that will include the administration of Pennsylvania Stallion Award, Pennsylvania Bred Award and a Pennsylvania Sired and Bred Award.

(iii) Four percent to be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at the racetrack at which the licensed racing entity operates for the benefit of the organization's members, their families, employees and others in accordance with the rules and eligibility requirements of the organization, as approved by the State Horse Racing Commission or the State Harness Racing Commission. This amount shall be deposited within five business days of the end of each month into a separate account to be established by each respective horsemen's organization at a banking institution of its choice. Of this amount, \$250,000 shall be paid annually by the horsemen's organization to the thoroughbred jockeys or standardbred drivers organization at the racetrack at which the licensed racing entity operates for health insurance, life insurance or other benefits to active and disabled thoroughbred jockeys or standardbred drivers in accordance with the rules and eligibility requirements of that organization.

(b) Guidelines.—The board shall establish guidelines that ensure that funds allocated to the horsemen's organization are used to finance the programs to benefit all horsemen of this Commonwealth and that administrative and overhead costs are reasonably related to such programs.

(c) Eligible recipients.—Funds allocated to the horsemen's organization under this part must be used to benefit all horsemen. Funds acquired from other sources shall be kept separate and apart from funds obtained under this part.

(d) Reasonableness.—Funding for benevolent programs, including, but not limited to, pension, health and insurance plans, will be considered reasonable if such program funding on an annual basis is at least 85% of the total statutory allocation.

(e) Filing of audit.—All horsemen's organizations that receive funds under this section shall file annually with the appropriate commission and the board an audit prepared by a certified public accountant of all funds received. Such filings shall be open to public review. The horsemen's organizations shall maintain adequate records concerning receipt and distribution of funds allocated to them.

(f) Contracts.—All health and pension benefits contracts shall be reviewed and approved by the board.

(g) Penalty.—Any violation of the provisions of this section may subject the horsemen's organization to a fine not to exceed \$10,000 per violation.

§ 1407. Pennsylvania Gaming Economic Development and Tourism Fund.

(a) Fund established.—There is hereby established a Pennsylvania Gaming Economic Development and Tourism Fund within the State Treasury.

(b) Fund administration and distribution.—The Pennsylvania Gaming Economic Development and Tourism Fund shall be administered by the Department of Community and Economic Development. All moneys in the Pennsylvania Gaming Economic Development and Tourism Fund shall be distributed pursuant to a subsequently enacted Economic Development Capital Budget that appropriates money from the fund pursuant to this section. The procedures for enactment, authorization and release of economic development and tourism funds authorized under this section for both capital projects and operational expenditures shall be the same as those provided for in sections 303(a), (b) and (c) and 318(a) of the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act, without reference to the nature or purpose of the project, and any other statutory provision, if any, necessary to effectuate the release of funds appropriated in such economic development capital budget.

(c) Pennsylvania Gaming Economic Development and Tourism Fund Assessment.—Each licensed gaming entity shall pay a daily assessment of 5% of its gross terminal revenue to the Pennsylvania Gaming Economic Development and Tourism Fund.

(d) Restrictions on projects for certain counties and cities.—For a ten-year period beginning with the first fiscal year during which deposits are made into this fund, no moneys from the Pennsylvania Gaming Economic Development and Tourism Fund shall be distributed for any project located in a city or county of the first or second class except as authorized by this subsection. Moneys not used for the authorized projects in cities and counties of the first and second classes may be used throughout this Commonwealth. Moneys from the fund for projects within cities and counties of the first and second classes may only be used for the following projects during this ten-year period:

- (1) for reimbursement to a city of the first class for debt service made by such city to the extent that such payments have been made for the expansion of the Pennsylvania Convention Center;

(2) for distribution to the General Fund to the extent that the Commonwealth has made debt service payments for the expansion of the Pennsylvania Convention Center;

(3) for reimbursement to a city of the first class for payments made by such city for the operation expenses of the Pennsylvania Convention Center during the prior calendar year;

(4) for debt service and for development and economic development projects for an international airport located in a county of the second class;

(5) for distribution to a community infrastructure development fund of a county of the second class to fund construction, development, improvement and maintenance of infrastructure projects;

(6) for the retirement of the indebtedness of an urban redevelopment authority created pursuant to the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law, in a city of the second class which is financed in part with the utilization of funds transferred to the regional asset district pursuant to Article XXXI-B of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code;

(7) for retirement of indebtedness and for financing of a hotel or convention center in a city of the second class established pursuant to the authority of the act of July 29, 1953 (P.L.1034, No.270), known as the Public Auditorium Authorities Law;

(8) for retirement of indebtedness of a county of the second class development fund created pursuant to the authority of Article XXXI-B of the Second Class County Code and the Urban Redevelopment Law;

(9) for retirement of indebtedness of a convention center in a city of the second class established pursuant to the authority of the Public Auditorium Authorities Law;

(10) for payment of the operating deficit for the operation of a convention center in a city of the second class established pursuant to the Public Auditorium Authorities Law.

§ 1408. Transfers from State Gaming Fund.

(a) Transfer for compulsive problem gambling treatment.—Each year, the sum of \$1,500,000 or an amount equal to .001 multiplied by the total gross terminal revenue of all active and operating licensed gaming entities, whichever is greater, shall be transferred into the Compulsive Problem Gambling Treatment Fund established in section 1509 (relating to compulsive and problem gambling program).

(b) Transfer for Volunteer Fire Company Grant Program.—Annually, the sum of \$25,000,000 shall be transferred from the State Gaming Fund to the Volunteer Fire Company Grant Program established under the act of July 31, 2003 (P.L.73, No.17), known as the Volunteer Fire Company and Volunteer Ambulance Service Grant Act.

(c) Local law enforcement grants.—Annually, the sum of \$5,000,000 shall be transferred to the board for the purpose of issuing grants to local law

enforcement agencies to enforce and prevent the unlawful operation of slot machines in this Commonwealth.

(d) Annual transfers.—Annually, the following sums shall be transferred from the State Gaming Fund as follows:

(1) To each county, 80¢ per acre for each acre of land in the county for which a payment is made under the act of May 17, 1929 (P.L.1798, No.591), referred to as the Forest Reserves Municipal Financial Relief Law, or under 34 Pa.C.S. § 708 (relating to payments in lieu of taxes).

(2) To each school district, 80¢ per acre for each acre of land in the school district for which a payment is made under the Forest Reserves Municipal Financial Relief Law or under 34 Pa.C.S. § 708.

(3) To each township, 80¢ per acre for each acre of land in the township for which a payment is made under the Forest Reserves Municipal Financial Relief Law or under 34 Pa.C.S. § 708.

(e) Transfer to Property Tax Relief Fund.—Monthly, the State Treasurer shall transfer the remaining balance in the State Gaming Fund which is not allocated in subsections (a), (b), (c) and (d) to the Property Tax Relief Fund established in section 1409 (relating to Property Tax Relief Fund).

§ 1409. Property Tax Relief Fund.

(a) Establishment.—There is hereby established in the State Treasury a special fund to be known as the Property Tax Relief Fund, which shall receive money from the State Gaming Fund and any other money from any source designated for deposit in the Property Tax Relief Fund.

(b) Use of money.—Money in the Property Tax Relief Fund shall be used for local property and wage tax relief as specified by law and is hereby appropriated.

CHAPTER 15

ADMINISTRATION AND ENFORCEMENT

1501. Responsibility and authority of department.

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- 1521. Liquor licenses at licensed facilities.

§ 1501. Responsibility and authority of department.

(a) General rule.—The department is authorized to administer and collect taxes imposed under this part and interest imposed under section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and promulgate and enforce rules and regulations to carry out its prescribed duties in accordance with this part, including the collection of taxes, penalties and interest imposed by this part.

(b) Application of rules and regulations.—The department may prescribe the extent, if any, to which any rules and regulations shall be applied without retroactive effect. The department shall have authority to prescribe the forms and the system of accounting and recordkeeping to be employed and through its representative shall at all times have power of access to and examination and audit of any equipment and records relating to all aspects of the operation of slot machines under this part.

(c) Procedure.—For purposes of implementing this part, the department may promulgate regulations in the same manner in which the board is authorized as provided in section 1203 (relating to temporary regulations).

(d) Additional penalty.—Any person who fails to timely remit to the department or the State Treasurer amounts required under this part shall be liable, in addition to any liability imposed elsewhere in this part, to a penalty of 5% per month up to a maximum of 25% of the amounts ultimately found to be due, to be recovered by the department.

§ 1502. Liens and suits for taxes.

The provisions of this part shall be subject to the provisions of sections 242 and 243 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

§ 1503. Applicants to provide tax information.

The provisions of section 477 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, shall apply to all applicants for the grant, renewal or transfer of any license or permit issued by the Pennsylvania Liquor Control Board under the Liquor Code consistent with this part.

§ 1504. Wagering on credit.

Slot machine licensees may not extend credit. Slot machine licensees may not accept credit cards, charge cards or debit cards from a player for the exchange or purchase of slot machine credits or for an advance of coins or currency to be utilized by a player to play slot machine games or extend credit in any manner to a player so as to enable the player to play slot machines.

§ 1505. No eminent domain authority.

Neither the Commonwealth nor any political subdivision thereof shall have the right to acquire, with or without compensation, through the power of

eminent domain any property, easement or land use right for the siting or construction of a facility for the operation of slot machines by a slot machine licensee.

§ 1506. Local land use preemption.

The conduct of gaming as permitted under this part, including the physical location of any licensed facility, shall not be prohibited or otherwise regulated by any ordinance, home rule charter provision, resolution, rule or regulation of any political subdivision or any local or State instrumentality or authority that relates to zoning or land use to the extent that the licensed facility has been approved by the board. The board may in its discretion consider such local zoning ordinances when considering an application for a slot machine license. The board shall provide the political subdivision, within which an applicant for a slot machine license has proposed to locate a licensed gaming facility, a 60-day comment period prior to the board's final approval, condition or denial of approval of its application for a slot machine license. The political subdivision may make recommendations to the board for improvements to the applicant's proposed site plans that take into account the impact on the local community, including, but not limited to, land use and transportation impact. This section shall also apply to any proposed racetrack or licensed racetrack.

§ 1507. Inapplicability of Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act.

The act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act, shall not apply to taxes or fees payable under this part.

§ 1508. Athletic event gaming.

Nothing in this part shall be construed to permit the receiving, recording or the registering of bets or wagers or selling pools which may involve any professional or amateur athletic event. Nothing in this part shall be construed to prohibit staging or conducting athletic events at licensed facilities.

§ 1509. Compulsive and problem gambling program.

(a) Establishment of program.—The Department of Health, in consultation with organizations similar to the Mid-Atlantic Addiction Training Institute, shall develop program guidelines for public education, awareness and training regarding compulsive and problem gambling and the treatment and prevention of compulsive and problem gambling. The program shall include:

(1) Maintenance of a compulsive gamblers assistance organization's toll-free problem gambling telephone number to provide crisis counseling and referral services to families experiencing difficulty as a result of problem or compulsive gambling.

(2) The promotion of public awareness regarding the recognition and prevention of problem or compulsive gambling.

(3) Facilitation, through in-service training and other means, of the availability of effective assistance programs for problem and compulsive gamblers and family members affected by problem and compulsive gambling.

(4) Conducting studies to identify adults and juveniles in this Commonwealth who are or are at risk of becoming problem or compulsive gamblers.

(5) Providing grants to and contracting with organizations which provide services as set forth in this section.

(6) Providing reimbursement for organizations for reasonable expenses in assisting the Department of Health in carrying out the purposes of this section.

(b) **Compulsive and Problem Gambling Treatment Fund.**—There is hereby established in the State Treasury a special fund to be known as the Compulsive and Problem Gambling Treatment Fund. All moneys in the fund shall be expended for programs for the prevention and treatment of gambling addiction and other emotional and behavioral problems associated with or related to gambling and for the administration of the compulsive and problem gambling program. The fund shall consist of money annually allocated to it from the annual payment established under section 1408 (relating to transfers from State Gaming Fund), money which may be allocated by the board, interest earnings on moneys in the fund and any other contributions, payments or deposits which may be made to the fund.

(c) **Notice of availability of assistance.**—

(1) Each slot machine licensee shall obtain a toll-free telephone number to be used to provide persons with information on assistance for compulsive or problem gambling. Each licensee shall conspicuously post signs similar to the following statement:

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

The signs must be posted within 50 feet of each entrance and exit and within 50 feet of each automated teller machine location within the licensed facility.

(2) Each racetrack where slot machines are operated shall print a statement on daily racing programs provided to the general public that is similar to the following:

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

(3) A licensed facility which fails to post or print the warning sign in accordance with paragraph (1) or (2) shall be assessed a fine of \$1,000 a day for each day the sign is not posted or printed as provided in this subsection.

(d) **Single county authorities.**—The Department of Health may make grants from the fund established under subsection (b) to a single county authority created pursuant to the act of April 14, 1972 (P.L.221, No.63),

known as the Pennsylvania Drug and Alcohol Abuse Control Act, for the purpose of providing compulsive gambling and gambling addiction prevention, treatment and education programs. It is the intention of the General Assembly that any grants that the Department of Health may make to any single county authority in accordance with the provisions of this subsection be used exclusively for the development and implementation of compulsive and problem gambling programs authorized under subsection (a).

(e) Definition.—As used in subsection (d), the term “single county authority” means the agency designated by the Department of Health pursuant to the act of April 14, 1972 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol Abuse Control Act, to plan and coordinate drug and alcohol prevention, intervention and treatment services for a geographic area, which may consist of one or more counties.

§ 1510. Labor hiring preferences.

(a) Category 1, 2, and 3 licensed facilities, generally.—Each licensed gaming entity shall prepare a hiring plan for employees of its respective licensed facility which promotes a diverse work force, minority participation and personnel from within the surrounding geographical area.

(b) Category 1 licensed facilities.—All current employees of a racetrack who meet the employment qualifications, if applicable, within this part and all those covered by a collective bargaining agreement as defined in the National Labor Relations Act (49 Stat. 449, 29 U.S.C. § 151 et seq.) where the licensed racing entity conducts racing shall be given a one-time preference of an offer of employment for a similar position at the licensed facility in a manner consistent with Federal law. If a similar position does not exist at the licensed facility, the employee or person covered by a collective bargaining agreement shall have a one-time preference of an offer of a position at comparable level at the licensed facility. All current employees and all those covered by a collective bargaining agreement shall have a period of 30 days from the issuance of a slot machine license to request employment at the licensed facility under this section. No current employee covered by this section shall suffer a reduction of salary, benefits or status as a result of an acceptance of new employment in the new facility.

§ 1511. Declaration of exemption from Federal laws prohibiting slot machines.

(a) Declaration.—Pursuant to the Gambling Devices Transportation Act (64 Stat. 1134, 15 U.S.C. § 1171 et seq.), the Commonwealth declares that it is exempt from section 2 of that act.

(b) Legal shipments.—All shipments of slot machines into this Commonwealth, the registering, recording and labeling of which has been effected by the manufacturer and supplier of those devices, in accordance with sections 5 and 7 of the Gambling Devices Transportation Act (64 Stat. 1134, 15 U.S.C. §§ 1175 and 1177), shall be deemed legal shipments of slot machines into this Commonwealth.

§ 1512. Public official financial interest.

(a) General rule.—Except as may be provided by rule or order of the Pennsylvania Supreme Court, no executive-level State employee, public official, party officer or immediate family member thereof shall have, at or following the effective date of this part, a financial interest in or be employed, directly or indirectly, by any licensed racing entity or licensed gaming entity, or any holding, affiliate, intermediary or subsidiary company, thereof, or any such applicant, nor solicit or accept, directly or indirectly, any complimentary service or discount from any licensed racing entity or licensed gaming entity which he or she knows or has reason to know is other than a service or discount that is offered to members of the general public in like circumstances during his or her status as an executive-level State employee, public official or party officer and for one year following termination of the person's status as an executive-level State employee, public official or party officer.

(b) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Executive-level State employee.” The Governor, Lieutenant Governor, cabinet members, deputy secretaries, the Governor's office executive staff, any State employee with discretionary powers which may affect the outcome of a State agency's decision in relation to a private corporation or business, with respect to any matter covered by this part or any executive employee who by virtue of his job function could influence the outcome of such a decision.

“Financial interest.” Owning or holding securities exceeding 1% of the equity or fair market value of the licensed racing entity or licensed gaming entity, its holding company, affiliate, intermediary or subsidiary business. A financial interest shall not include any such stock that is held in a blind trust over which the executive-level State employee, public official, party officer or immediate family member thereof may not exercise any managerial control or receive income during the tenure of office and the period under subsection (a).

“Immediate family.” A parent, spouse, minor or unemancipated child, brother or sister.

“Party officer.” A member of a national committee; a chairman, vice chairman, secretary, treasurer or counsel of a State committee or member of the executive committee of a State committee; a county chairman, vice chairman, counsel, secretary or treasurer of a county committee; or a city chairman, vice chairman, counsel, secretary or treasurer of a city committee.

“Public official.” Any person elected by the public or elected or appointed by a governmental body or an appointed official in the executive, legislative or judicial branch of this Commonwealth or any political subdivision thereof, provided that it shall not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the Commonwealth or any political subdivision or commissioner of any authority or joint-state commission.

§ 1513. Political influence.

(a) Contribution restriction.—An applicant for a slot machine license, manufacturer license or supplier license, licensed racing entity, licensed manufacturer, licensed supplier or licensed gaming entity, or a person that holds a similar gaming license or permit or a controlling interest in a gaming license or permit in another jurisdiction, or any holding, affiliate, intermediary or subsidiary company thereof, or any officer, director or key employee of such applicant, licensed manufacturer or licensed supplier, licensed racing entity or licensed gaming entity or any holding, affiliate, intermediary or subsidiary company thereof, shall be prohibited from contributing any money or in-kind contribution to a candidate for nomination or election to any public office in this Commonwealth, or to any political committee or State party in this Commonwealth or to any group, committee or association organized in support of any such candidate, political committee or State party.

(b) Annual certification.—The chief executive officer, or other appropriate individual, of each applicant for a slot machine license, manufacturer license or supplier license, licensed racing entity, licensed supplier, licensed manufacturer or licensed gaming entity shall annually certify under oath to the board and the Department of State that such applicant or licensed racing entity, licensed supplier, licensed manufacturer or licensed gaming entity has developed and implemented internal safeguards and policies intended to prevent a violation of this provision and that such applicant or licensed racing entity or licensed gaming entity has conducted a good faith investigation that has not revealed any violation of this provision during the past year.

(c) Penalties.—The first violation of this section by a licensed gaming entity or any person that holds a controlling interest in such gaming entity, or a subsidiary company thereof, and any officer, director or management-level employee of such licensee shall be punishable by a fine of not less than an average single day's gross terminal revenue of the licensed gaming entity derived from the operation of slot machines in this Commonwealth; a second violation of this section, within five years of the first violation, shall be punishable by at least a one-day suspension of the license held by the licensed gaming entity and a fine not less than an average two days' gross revenue of the licensed gaming entity; a third violation of this section within five years of the second violation shall be punishable by the immediate revocation of the license held by the licensed gaming entity. The first violation of this section by a manufacturer or supplier licensed pursuant to this part or by any person that holds a controlling interest in such manufacturer or supplier, or a subsidiary company thereof, and any officer, director or management-level employee of such a licensee shall be punishable by a fine of not less than one day's average of the gross profit from sales made by the manufacturer or supplier in Pennsylvania during the preceding 12-month period or portion thereof in the event the manufacturer or supplier has not operated in Pennsylvania for 12 months; a second violation of this section within five

years of the first violation shall be punishable by a one-month suspension of the license held by the manufacturer or supplier and a fine of not less than two times one day's average of the gross profit from sales made by the manufacturer or supplier in Pennsylvania during the preceding 12-month period or portion thereof in the event the manufacturer or supplier has not operated in Pennsylvania for 12 months. In no event shall the fine imposed under this section be in an amount less than \$50,000 for each violation. In addition to any fine or sanction that may be imposed by the board, any person who makes a contribution in violation of this section commits a misdemeanor of the third degree.

§ 1514. Regulation requiring exclusion of certain persons.

(a) General rule.—The board shall by regulation provide for the establishment of a list of persons who are to be excluded or ejected from any licensed facility. The provisions shall define the standards for exclusion and shall include standards relating to persons who are career or professional offenders as defined by regulations of the board or whose presence in a licensed facility would, in the opinion of the board, be inimical to the interest of the Commonwealth or of licensed gaming therein, or both.

(b) Categories to be defined.—The board shall promulgate definitions establishing those categories of persons who shall be excluded pursuant to this section, including cheats and persons whose privileges for licensure or registration have been revoked.

(c) Discrimination prohibited.—Race, color, creed, national origin or ancestry or sex shall not be a reason for placing the name of any person upon a list under this section.

(d) Sanctions.—The board may impose sanctions upon a licensed gaming entity in accordance with this part if the licensed gaming entity knowingly fails to exclude or eject from the premises of any licensed facility any person placed by the board on the list of persons to be excluded or ejected.

(e) List not all-inclusive.—Any list compiled by the board of persons to be excluded or ejected shall not be deemed an all-inclusive list, and a licensed gaming entity shall have a duty to keep from the licensed facility persons known to it to be within the classifications declared in this section and the regulations promulgated under this section whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed gaming therein, or both, as defined in standards established by the board.

(f) Notice.—Whenever the board places the name of any person on a list pursuant to this section, the board shall serve notice of this fact to such person by personal service or certified mail at the last known address of the person.

(g) Hearing.—Within 30 days after notice in accordance with subsection (f), the person named for exclusion or ejection may demand a hearing before the board, at which hearing the board shall have the affirmative obligation to demonstrate that the person named for exclusion or ejection satisfies the criteria for exclusion established by this section and the board's regulations. Failure to demand a hearing within 30 days after service shall be deemed an

admission of all matters and facts alleged in the board's notice and shall preclude a person from having an administrative hearing, but shall in no way affect the right to judicial review as provided in this section.

(h) Review.—If, upon completion of a hearing on the notice of exclusion or ejection, the board determines that placement of the name of the person on the exclusion list is appropriate, the board shall make and enter an order to that effect, which order shall be served on all slot machine licensees. The order shall be subject to review by the Commonwealth Court in accordance with the rules of court.

§ 1515. Repeat offenders excludable from licensed gaming facility.

A licensed gaming entity may exclude or eject from its licensed facility any person who is known to it to have been convicted of a misdemeanor or felony committed in or on the premises of any licensed facility. Nothing in this section or in any other law of this Commonwealth shall limit the right of a licensed gaming entity to exercise its common law right to exclude or eject permanently from its licensed facility any person who disrupts the operations of its premises, threatens the security of its premises or its occupants or is disorderly or intoxicated.

§ 1516. List of persons self excluded from gaming activities.

(a) General rule.—The board shall provide by regulation for the establishment of a list of persons self excluded from gaming activities at all licensed facilities. Any person may request placement on the list of self-excluded persons by acknowledging in a manner to be established by the board that the person is a problem gambler and by agreeing that, during any period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at licensed facilities.

(b) Regulations.—The regulations of the board shall establish procedures for placements on and removals from the list of self-excluded persons. The regulations shall establish procedures for the transmittal to licensed gaming entities of identifying information concerning self-excluded persons and shall require licensed gaming entities to establish procedures designed at a minimum to remove self-excluded persons from targeted mailings or other forms of advertising or promotions and deny self-excluded persons access to complimentary, check cashing privileges, club programs and other similar benefits.

(c) Liability.—A licensed gaming entity or employee thereof shall not be liable to any self-excluded person or to any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of:

- (1) the failure of a licensed gaming entity to withhold gaming privileges from or restore gaming privileges to a self-excluded person; or
- (2) otherwise permitting or not permitting a self-excluded person to engage in gaming activity in the facility while on the list of self-excluded persons.

(d) Disclosure.—Notwithstanding any other law to the contrary, the board's list of self-excluded persons shall not be open to public inspection. Nothing in this section, however, shall be construed to prohibit a licensed gaming entity from disclosing the identity of persons self excluded pursuant to this section to affiliated gaming entities in this Commonwealth or other jurisdictions for the limited purpose of assisting in the proper administration of responsible gaming programs operated by affiliated licensed gaming entities.

§ 1517. Enforcement.

(a) Powers and duties.—The Bureau of Investigations and Enforcement shall have the following powers and duties:

(1) Promptly investigate all licensees, permittees and applicants as directed by the board in accordance with the provisions of section 1202 (relating to general and specific powers).

(2) Enforce the rules and regulations promulgated under this part.

(3) Initiate proceedings for administrative violations of this part or regulations promulgated under this part.

(4) Provide the board with all information necessary for all action under this part and for all proceedings involving enforcement of this part or regulations promulgated under this part.

(5) Investigate the circumstances surrounding any act or transaction for which board approval is required.

(6) Conduct administrative inspections on the premises of a licensed racetrack or nonprimary location or licensed facility to ensure compliance with this part and the regulations of the board and, in the course of inspections, review and make copies of all documents and records that may be required through onsite observation and other reasonable means to assure compliance with this part and regulations promulgated under this part.

(7) Receive and take appropriate action on any referral from the board relating to any evidence of a violation.

(8) Conduct audits of slot machine operations at such times, under such circumstances and to such extent as the bureau determines. This paragraph includes reviews of accounting, administrative and financial records and management control systems, procedures and records utilized by a slot machine licensee.

(9) Request and receive information, materials and other data from any licensee, permittee or applicant.

(10) Refer for investigation all possible criminal violations to the Pennsylvania State Police and cooperate fully in the investigation and prosecution of a criminal violation arising under this part.

(b) Powers and duties of department.—

(1) The department shall at all times have the power of access to examination and audit of any equipment and records relating to all aspects of the operation of slot machines under this part.

(2) Notwithstanding the provisions of section 353(f) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, the department shall supply the board, the bureau, the Pennsylvania State Police and the Office of Attorney General with information concerning the status of delinquent taxes owned by the applicant, licensee or permittee.

(c) Powers and duties of the Pennsylvania State Police.—The Pennsylvania State Police shall have the following powers and duties:

(1) Promptly investigate all licensees, permittees and applicants as directed by the board in accordance with the provisions of section 1202.

(2) Enforce the rules and regulations promulgated under this part.

(3) Initiate proceedings for any violations of this part or regulations promulgated under this part.

(4) Provide the board with all information necessary for all actions under this part for all proceedings involving enforcement of this part or regulations promulgated under this part.

(5) Inspect a licensee's or permittee's person and personal effects present in a licensed facility under this part while that licensee or permittee is present at a licensed facility.

(6) Enforce the criminal provisions of this part and all other criminal laws of the Commonwealth.

(7) Fingerprint applicants for licenses and permits.

(8) Exchange fingerprint data with and receive national criminal history record information from the FBI for use in investigating applications for any license or permit under this part.

(9) Receive and take appropriate action on any referral from the board relating to criminal conduct.

(10) Require the production of any information, material and other data from any licensee, permittee or applicant.

(11) Conduct administrative inspections on the premises of licensed racetrack or nonprimary location or licensed facility to ensure compliance with this part and the regulations of the board and, in the course of inspections, review and make copies of all documents and records required by the inspection through onsite observation and other reasonable means to assure compliance with this part and regulations promulgated under this part.

(12) Conduct audits or verification of information of slot machine operations at such times, under such circumstances and to such extent as the bureau determines. This paragraph includes reviews of accounting, administrative and financial records and management control systems, procedures and records utilized by a slot machine licensee.

(13) A member of the Pennsylvania State Police assigned to duties of enforcement under this part shall not be counted toward the complement as defined in the act of December 13, 2001 (P.L.903, No.100), entitled "An act repealing in part a limitation on the complement of the Pennsylvania State Police."

(d) Criminal action.—

(1) The district attorneys of the several counties shall have authority to investigate and to institute criminal proceedings for any violation of this part.

(2) In addition to the authority conferred upon the Attorney General by the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General shall have the authority to investigate and to institute criminal proceedings for any violation of this part or any series of such violations involving any county of this Commonwealth and another state. No person charged with a violation of this part by the Attorney General shall have standing to challenge the authority of the Attorney General to investigate or prosecute the case, and, if any such challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of this Commonwealth to the person making the challenge.

(e) Inspection, seizure and warrants.—

(1) The bureau, the department and the Pennsylvania State Police shall have the authority without notice and without warrant to do all of the following in the performance of their duties:

(i) Inspect and examine all premises where slot machine operations are conducted, gaming devices or equipment are manufactured, sold, distributed or serviced or where records of these activities are prepared or maintained.

(ii) Inspect all equipment and supplies in, about, upon or around premises referred to in subparagraph (i).

(iii) Seize, summarily remove and impound equipment and supplies from premises referred to in subparagraph (i) for the purposes of examination and inspection.

(iv) Inspect, examine and audit all books, records and documents pertaining to a slot machine licensee's operation.

(v) Seize, impound or assume physical control of any book, record, ledger, game, device, cash box and its contents, counting room or its equipment or slot machine operations.

(2) The provisions of paragraph (1) shall not be deemed to limit warrantless inspections except in accordance with constitutional requirements.

(3) To further effectuate the purposes of this part, the bureau and the Pennsylvania State Police may obtain administrative warrants for the inspection and seizure of property possessed, controlled, bailed or otherwise held by an applicant, licensee, permittee, intermediary, subsidiary, affiliate or holding company.

(f) Information sharing and enforcement referral.—With respect to the administration, supervision and enforcement of this part, the bureau, the department, the Pennsylvania State Police or the Office of Attorney General may obtain or provide pertinent information regarding applicants, licensees or

permittees from or to law enforcement entities or gaming authorities of the Commonwealth and other domestic, foreign or federally approved jurisdictions, including the Federal Bureau of Investigation, and may transmit such information to each other electronically.

§ 1518. Prohibited acts; penalties.

(a) Criminal offenses.—

(1) The provisions of 18 Pa.C.S. § 4902 (relating to perjury), 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities) shall apply to any person providing information or making any statement, whether written or oral, to the board, the bureau, the department, the Pennsylvania State Police or the Office of Attorney General, as required by this part.

(2) It is unlawful for a person to willfully:

(i) fail to report, pay or truthfully account for and pay over any license fee, tax or assessment imposed under this part; or

(ii) attempt in any manner to evade or defeat any license fee, tax or assessment imposed under this part.

(3) It is unlawful for any licensed entity, gaming employee, key employee or any other person to permit a slot machine to be operated, transported, repaired or opened on the premises of a licensed facility by a person other than a person licensed or permitted by the board pursuant to this part.

(4) It is unlawful for any licensed entity or other person to manufacture, supply or place slot machines into play or display slot machines on the premise of a licensed facility without the authority of the board.

(5) Except as provided for in section 1326 (relating to license renewals), it is unlawful for a licensed entity or other person to manufacture, supply, operate, carry on or expose for play any slot machine after the person's license has expired and prior to the actual renewal of the license.

(6) (i) Except as set forth in subparagraph (ii),¹ it is unlawful for an individual on the premises of a licensed facility to knowingly use currency other than lawful coin or legal tender of the United States or a coin not of the same denomination as the coin intended to be used in the slot machine.

(ii) In the playing of a slot machine, it is lawful for an individual to use gaming billets, tokens or similar objects issued by the licensed gaming entity which are approved by the board.

(7) (i) Except as set forth in subparagraph (ii),¹ it is unlawful for an individual on the premises of a licensed facility to use or possess a cheating or thieving device, counterfeit or altered billet, ticket, token or

¹"in paragraph (2)," in enrolled bill.

similar objects accepted by a slot machine or counterfeit or altered slot machine-issued tickets or vouchers.

(ii) An authorized employee of a licensee or an employee of the board may possess and use a cheating or thieving device, counterfeit or altered billet, ticket, token or similar objects accepted by a slot machine or counterfeit or altered slot machine-issued tickets or vouchers only in performance of the duties of employment.

(iii) As used in this paragraph,¹ the term "cheating or thieving device" includes, but is not limited to, a device to facilitate the alignment of any winning combination or to remove from any slot machine money or other contents. The term includes, but is not limited to, a tool, drill, wire, coin or token attached to a string or wire and any electronic or magnetic device.

(8) (i) Except as set forth in subparagraph (ii),² it is unlawful for an individual to knowingly possess or use while on the premises of a licensed facility a key or device designed for the purpose of and suitable for opening or entering any slot machine or coin box.

(ii) An authorized employee of licensee or a member of the board may possess and use a device referred to in subparagraph (i)³ only in the performance of the duties of employment.

(9) It is unlawful for a person or licensed entity to possess any device, equipment or material which the person or licensed entity knows has been manufactured, distributed, sold, tampered with or serviced in violation of this part.

(10) It is unlawful for an individual to work or be employed in a position the duties of which would require licensing or permitting under the provisions of this part without first obtaining the requisite license or permit as provided for in this part.

(11) It is unlawful for a licensed gaming entity that is a licensed racing entity and that has lost the license issued to it by either the State Horse Racing Commission or the State Harness Racing Commission under the Race Horse Industry Reform Act or that has had that license suspended to operate slot machines at the racetrack for which its license was issued unless the license will be subsequently reissued or reinstated within 30 days after the loss or suspension.

(12) It is unlawful for a licensed entity to employ or continue to employ in a position the duties of which require a license or permit under the provisions of this part:

(i) An individual not licensed or permitted under the provisions of this part.

¹"this subsection," in enrolled bill.

²"in paragraph (2)," in enrolled bill.

³"paragraph (1)" in enrolled bill.

(ii) An individual who is prohibited from accepting employment from a licensee.

(13) It is unlawful for any person under 18 years of age to be permitted in the area where slot machines are operated.

(b) Criminal penalties and fines.—

(1) (i) A person that violates subsection (a)(1) commits an offense to be graded in accordance with 18 Pa.C.S. § 4902, 4903 or 4904, as applicable, for a first conviction. A person that is convicted of a second or subsequent violation of subsection (a)(1) commits a felony of the second degree.

(ii) A person that violates subsection (a)(2) through (12) commits a misdemeanor of the first degree. A person that is convicted of a second or subsequent violation of subsection (a)(2) through (12) commits a felony of the second degree.

(2) (i) For a first violation of subsection (a)(1) through (12), a person shall be sentenced to pay a fine of:

(A) not less than \$75,000 nor more than \$150,000 if the person is an individual;

(B) not less than \$300,000 nor more than \$600,000 if the person is a licensed gaming entity; or

(C) not less than \$150,000 nor more than \$300,000 if the person is a licensed manufacturer or supplier.

(ii) For a second or subsequent violation of subsection (a)(1) through (12), a person shall be sentenced to pay a fine of:

(A) not less than \$150,000 nor more than \$300,000 if the person is an individual;

(B) not less than \$600,000 nor more than \$1,200,000 if the person is a licensed gaming entity; or

(C) not less than \$300,000 nor more than \$600,000 if the person is a licensed manufacturer or supplier.

(c) Board-imposed administrative sanctions.—

(1) In addition to any other penalty authorized by law, the board may impose without limitation the following sanctions upon any licensee or permittee:

(i) Revoke the license or permit of any person convicted of a criminal offense under this part or regulations promulgated under this part or committing any other offense or violation of this part or applicable law which would otherwise disqualify such person from holding the license or permit.

(ii) Revoke the license or permit of any person determined to have violated a provision of this part or regulations promulgated under this part which would otherwise disqualify such person from holding the license or permit.

(iii) Revoke the license or permit of any person for willfully and knowingly violating or attempting to violate an order of the board directed to such person.

(iv) Suspend the license or permit of any person pending the outcome of a hearing in any case in which license or permit revocation could result.

(v) Suspend the license of any licensed gaming entity for violation of or attempting to violate any provisions of this part or regulations promulgated under this part relating to its slot machine operations.

(vi) Assess administrative penalties as necessary to punish misconduct and to deter future violations.

(vii) Order restitution of any moneys or property unlawfully obtained or retained by a licensee or permittee.

(viii) Enter cease and desist orders which specify the conduct which is to be discontinued, altered or implemented by the licensee or permittee.

(ix) Issue letters of reprimand or censure, which letters shall be made a permanent part of the file of each licensee or permittee so sanctioned.

(2) If the board refuses to issue or renew a license or permit, suspends or revokes a license or permit, assesses civil penalties, orders restitution, enters a cease and desist order or issues a letter of reprimand or censure, it shall provide the applicant or licensee or permittee with written notification of its decision, including a statement of the reasons for its decision by certified mail within five business days of the decision. Any applicant or licensee or permittee who has received notice of a refusal, suspension or revocation of a license or permit, the assessment of civil penalties, an order of restitution, the entrance of a cease and desist order or the issuance of a letter of reprimand or censure from the board shall have the right to an administrative hearing before the board in accordance with 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(3) In addition to any other fines or penalties that the board may impose under this part or regulation, if a person violates subsection (a)(2), the board shall impose an administrative penalty of three times the amount of the license fee, tax or other assessment evaded and not paid, collected or paid over. This subsection is subject to 2 Pa.C.S. Chs. 5 Subch. A and 7 Subch. A.

§ 1519. (Reserved).

§ 1520. Automated teller machines.

The board shall promulgate rules and regulations governing the placement of automated teller machines (ATMs).

§ 1521. Liquor licenses at licensed facilities.

(a) Reapplication.—Nothing in this part shall require a person already licensed to sell liquor or malt or brewed beverages to reapply for the license except in the manner set forth in the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

(b) License authority.—Notwithstanding any other provision of law, a person holding a slot machine license which is also licensed to sell liquor or malt or brewed beverages pursuant to the Liquor Code shall be permitted to sell, furnish or give liquor or malt or brewed beverages on the unlicensed portion of the licensed gaming facility so long as the liquor or malt or brewed beverages remain on the facility.

(c) Nonlicensees.—Notwithstanding any other provision of law, a slot machine licensee which is not licensed to sell liquor or malt or brewed beverages shall be entitled to apply to the Pennsylvania Liquor Control Board for a restaurant liquor or eating place retail dispenser license as permitted by section 472 of the Liquor Code. The following shall apply:

(1) Licenses issued under this section shall not be subject to:

(i) The proximity provisions of sections 402 and 404 of the Liquor Code.

(ii) The quota restrictions of section 461 of the Liquor Code.

(iii) The provisions of section 493(10) of the Liquor Code except as they relate to lewd, immoral or improper entertainment.

(iv) The prohibition against minors frequenting as described in section 493(14) of the Liquor Code.

(v) The cost and total display area limitations of section 493(20)(i) of the Liquor Code.

In addition, licenses issued under this section shall not be subject to the provisions defining “restaurant” or “eating place” in section 102 of the Liquor Code.

(2) Absent good cause shown consistent with the purposes of this part, the Pennsylvania Liquor Control Board shall approve an application for the license filed by a licensed gaming entity within 60 days.

CHAPTER 18 FINGERPRINTING

Sec.

1801. Duty to provide.

1802. Submission of fingerprints.

1803. Commission exemption.

1804. Board exemption.

1805. Reimbursement.

§ 1801. Duty to provide.

Notwithstanding the provisions of the Race Horse Industry Reform Act or this part, the Pennsylvania State Police shall at the request of the commissions or the board provide criminal history background investigations, which shall include records of criminal arrests or convictions, on applicants for licensure

by the respective agencies pursuant to the Race Horse Industry Reform Act or this part. Requests for criminal history background investigations may, at the direction of the commissions or the board, include, but not be limited to, officers, directors and stockholders of licensed corporations, key employees, gaming employees, horse owners, trainers, jockeys, drivers and other persons participating in thoroughbred or harness horse meetings and other persons and vendors who exercise their occupation or employment at such meetings, licensed facilities or licensed racetrack. For the purposes of this chapter, the board and commissions may receive information otherwise protected by 18 Pa.C.S. Ch. 91 (relating to criminal history record information).

§ 1802. Submission of fingerprints.

Applicants under this part shall submit to fingerprinting by the Pennsylvania State Police. The Pennsylvania State Police shall submit the fingerprints if necessary to the Federal Bureau of Investigation for purposes of verifying the identity of the applicants and obtaining records of criminal arrests and convictions in order to prepare criminal history background investigations under section 1801 (relating to duty to provide). The applicant shall pay for the cost of fingerprinting.

§ 1803. Commission exemption.

A commission may exempt applicants for positions not related to the care or training of horses, racing, wagering, security or the management of licensed corporations from the provisions of this chapter.

§ 1804. Board exemption.

The board may exempt applicants who are not gaming employees or key employees from the provisions of this chapter.

§ 1805. Reimbursement.

The commissions and board shall reimburse the Pennsylvania State Police for actual costs incurred as approved by the board for the conducting of investigations under this part.

CHAPTER 19 MISCELLANEOUS PROVISIONS

Sec.

1901. Appropriations.

1902. Severability.

1903. Repeals.

1904. Exclusive jurisdiction of Supreme Court.

§ 1901. Appropriations.

(a) Appropriation to board.—The sum of \$7,500,000 is hereby appropriated to the Pennsylvania Gaming Control Board for the fiscal period July 1, 2004, to June 30, 2006, to implement and administer the provisions of this part. The money appropriated in this subsection shall be considered a loan from the General Fund and shall be repaid to the General Fund quarterly commencing with the date slot machine licensees begin operating slot

machines under this part. This appropriation shall be a two-year appropriation and shall not lapse until June 30, 2006.

(b) Appropriation to department.—The sum of \$21,100,000 is hereby appropriated from the General Fund to the Department of Revenue for the fiscal period July 1, 2004, to June 30, 2006, to prepare for, implement and administer the provisions of this part. The money appropriated under this subsection shall be considered a loan from the General Fund and shall be repaid to the General Fund quarterly commencing with the date slot machine licensees begin operating slot machines under this part. This appropriation shall be a two-year appropriation and shall not lapse until June 30, 2006.

(c) Appropriation to Pennsylvania State Police.—The sum of \$7,500,000 is hereby appropriated from the General Fund to the Pennsylvania State Police for the fiscal period July 1, 2004, to June 30, 2006, to prepare for, implement and administer the provisions of this part. The money appropriated under this subsection shall be considered a loan from the General Fund and shall be repaid to the General Fund quarterly commencing when all slot machine licensees begin operating slot machines under this part. This appropriation shall be a two-year appropriation and shall not lapse until June 30, 2006.

§ 1902. Severability.

(a) General rule.—Except as provided in subsection (b), the provisions of this part are severable. If any provision of this part or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application.

(b) Limitation.—If any of the provisions of section 1201 (relating to Pennsylvania Gaming Control Board established) or 1209 (relating to slot machine license fee) or their application to any person or circumstance are held to be invalid by any court, the remaining provisions of this part and its application shall be void.

§ 1903. Repeals.

(a) Inconsistent.—The following acts and parts of acts are repealed as follows:

(1) Section 493(29) of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, is repealed absolutely.

(2) The provisions of 18 Pa.C.S. § 5513(a) are repealed insofar as they are inconsistent with this part.

(b) General.—All other acts and parts of acts are repealed insofar as they are inconsistent with this part.

§ 1904. Exclusive jurisdiction of Supreme Court.

The Pennsylvania Supreme Court shall have exclusive jurisdiction to hear any challenge to or to render a declaratory judgment concerning the constitutionality of this part. The Supreme Court is authorized to take such action as it deems appropriate, consistent with the Supreme Court retaining

jurisdiction over such a matter, to find facts or to expedite a final judgment in connection with such a challenge or request for declaratory relief.

Section 2. This act shall take effect immediately.

APPROVED—The 5th day of July, A.D. 2004.

EDWARD G. RENDELL