

No. 2006-135

AN ACT

SB 862

Amending Titles 4 (Amusements) and 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for definitions and for the Pennsylvania Gaming Control Board; providing for applicability of other statutes; further providing for powers and duties of board; providing for code of conduct; further providing for temporary regulations, for licensed entity application appeals from board, for license or permit application hearing process, for board minutes and records, for collection of fees and fines, for regulatory authority of board, for slot machine license fee, for number of slot machines, for reports of board, for license or permit prohibition, for Category 2 slot machine licenses, for Category 3 slot machine licenses, for order of initial license issuance, for slot machine license application and for slot machine license application business entity requirements; providing for licensing of principals and for licensing of key employees; further providing for slot machine license application financial fitness requirements and for supplier and manufacturer licenses; providing for manufacturer licenses; further providing for occupation permit application, for central control computer system, for license or permit issuance, for nontransferability of licenses and for gross terminal revenue deductions; providing for itemized budget reporting; further providing for establishment of State Gaming Fund and net slot machine revenue distribution, for distributions from Pennsylvania Race Horse Development Fund and for the Compulsive and Problem Gambling Program; providing for public official financial interest, for political influence and for enforcement; providing for procedures and for conduct of public officials and employees; further providing for prohibited acts and penalties; providing for detention and for interception of oral communications; further providing for duty to provide and for submission of fingerprints and photographs; providing for repayments to State Gaming Fund; and further providing for corrupt organizations.

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

Section 1. The definitions of "affiliate" or "affiliated company," "applicant," "controlling interest," "gross terminal revenue" and "licensed facility" in section 1103 of Title 4 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding definitions to read:

§ 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]," *"affiliate of" or "person affiliated with."* 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,] *person other than an individual*, the Pennsylvania Gaming Control Board shall determine the associated persons whose qualifications are necessary as a precondition to the licensing of the applicant.

* * *

“Compensation.” Any thing of value, money or a financial benefit conferred on or received by a person in return for services rendered, or to be rendered, whether by that person or another.

“Complimentary service.” Any lodging, service or item which is provided to an individual at no cost or at a reduced cost which is not generally available to the public under similar circumstances. Group rates, including convention and government rates, shall be deemed to be generally available to the public.

“Conduct of gaming.” The licensed placement and operation of games of chance under this part and approved by the Pennsylvania Gaming Control Board at a licensed facility.

“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.] For a publicly traded domestic or foreign corporation, a controlling interest is an interest in a legal entity, applicant or licensee if a person’s sole voting rights under State law or corporate articles or bylaws entitle the person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of 5% or more of the securities of the publicly traded corporation, partnership, limited liability company or other form of publicly traded legal entity, unless this presumption of control or ability to elect is rebutted by clear and convincing evidence. For a privately held domestic or foreign corporation, partnership, limited liability company or other form of privately held legal entity, a controlling interest is the holding of any securities in the legal entity, unless this presumption of control is rebutted by clear and convincing evidence.

* * *

“Corporation.” Includes a publicly traded corporation.

“Gross terminal revenue.” The total of *cash or cash equivalent* 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.

“Holding company.” *A person, other than an individual, which, directly or indirectly, owns or has the power or right to control or to vote any significant part of the outstanding voting securities of a corporation or other form of business organization. A holding company indirectly has, holds or owns any such power, right or security if it does so through an interest in a subsidiary or successive subsidiaries.*

“Independent contractor.” *A person who performs professional, scientific, technical, advisory or consulting services for the Pennsylvania Gaming Control Board for a fee, honorarium or similar compensation pursuant to a contract.*

“Intermediary.” *A person, other than an individual, which:*

(1) *is a holding company with respect to a corporation or other form of business organization, which holds or applies for a license under this part; and*

(2) *is a subsidiary with respect to any holding company.*

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

“Member.” *An individual appointed to and sworn in as a member of the board in accordance with section 1201(b) (relating to Pennsylvania Gaming Control Board established).*

“Principal.” *An officer; director; person who directly holds a beneficial interest in or ownership of the securities of an applicant or licensee; person who has a controlling interest in an applicant or licensee, or has the ability to elect a majority of the board of directors of a licensee or to otherwise control a licensee; lender or other licensed financial institution of an applicant or licensee, other than a bank or lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; underwriter of an applicant or licensee; or other person or employee of an applicant, slot machine licensee, manufacturer licensee or supplier licensee deemed to be a principal by the Pennsylvania Gaming Control Board.*

* * *

“Publicly traded corporation.” *A person, other than an individual, which:*

- (1) has a class or series of securities registered under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.);*
- (2) is a registered management company under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.); or*
- (3) is subject to the reporting obligations imposed by section 15(d) of the Securities Exchange Act of 1934 by reason of having filed a registration statement which has become effective under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.).*

* * *

“Subsidiary.” *A person other than an individual. The term includes:*

- (1) a corporation, any significant part of whose outstanding equity securities are owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company;*
- (2) a significant interest in a person, other than an individual, which is owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company; or*
- (3) a person deemed to be a subsidiary by the Pennsylvania Gaming Control Board.*

* * *

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

Section 2. Section 1201 of Title 4 is amended to read:

§ 1201. Pennsylvania Gaming Control Board established.

(a) Board established.—There is established an independent [administrative] board *which shall be a body corporate and politic* 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.

(b.1) Removal.—*A member of the board shall be removed from office by the appointing authority:*

(1) for misconduct in office, willful neglect of duty or conduct evidencing unfitness for office or incompetence; or

(2) upon conviction of an offense graded as a felony, an infamous crime, an offense under this part or an equivalent offense under Federal law or the law of another jurisdiction.

(c) Initial appointments to board.—

(1) Gubernatorial [appointee members] *appointees* 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] *appointees* 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] *An* appointment to fill a vacancy *created by a member appointed in accordance with paragraph (1) or (2)* shall be for the remainder of 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] Terms of office.—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 (c), [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.] *the following shall apply:*

(1) The term of office of a gubernatorial appointee shall be 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.] *The term of office of a legislative appointee shall be two years and until a successor is appointed and qualified.*

(3) [No] A legislative appointee [member] shall serve *no* more than three full [successive] *consecutive* terms.

(4) [No] A gubernatorial appointee [member] shall serve *no* more than two full [successive] *consecutive* terms.

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

(6) *A member appointed to fill a vacancy under paragraph (3) may serve three full terms following the expiration of the term related to the vacancy.*

(7) *A member appointed to fill a vacancy under paragraph (4) may serve two full terms following the expiration of the term related to the vacancy.*

(e) Ex officio members.—The Secretary of Revenue, the Secretary of Agriculture and the State Treasurer, *or their designees*, shall serve on the board as nonvoting ex officio members of the board. *The designee shall be a deputy secretary or an equivalent position within the agency.*

(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] of this part or 65 Pa.C.S. § 1103(j) (relating to restricted activities), a member shall disclose the nature of his disqualifying interest, disqualify himself and abstain from voting in a proceeding *under this part* in which his [or her impartiality] *objectivity, impartiality, integrity or independence of judgment* 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] *as provided in subsection (h)(6). If* a legislative appointee [member that has disqualified himself or herself] *has disqualified himself*, the qualified majority shall consist of *all 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]** *be employed by or be an independent contractor of the board if that person is a public official or party officer* as defined in section 1512 (relating to **[public official financial interest]** *financial and employment interests*) 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.]

(3) Each member, employee and independent contractor of the board shall sign an agreement not to disclose confidential information.

(4) No member, employee or independent contractor of the board or other agency having regulatory authority over the board or over forms of gaming regulated by this part shall be employed, hold any office or position or be engaged in any activity which is incompatible with the position, employment or contract.

(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.] receive any fee or other compensation other than salary and expenses provided by law for any activity related to the duties or authority of the board. 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.] or independent contractor of the board

shall participate in a hearing, proceeding or other matter in which the member, employee or independent contractor, or the immediate family thereof, has a financial interest in the subject matter of the hearing or proceeding or other interest that could be substantially affected by the outcome of the hearing or proceeding without first fully disclosing the nature of the interest to the board and other persons participating in the hearing or proceeding. The board shall determine if the interest is a disqualifying interest that requires the disqualification or nonparticipation of an employee or independent contractor. For purposes of this paragraph, the term "immediate family" shall mean spouse, parent, brother, sister or child.

(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.] *any financial interest in any applicant, licensed entity or licensed facility and in an affiliate, intermediary, subsidiary or holding company thereof held by the member or known to be held by the member's immediate family.* 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] *for the duration of the member's term* and for two years after the member leaves office. *For purposes of this paragraph, the term "immediate family" shall mean spouse, parent, brother, sister or child.*

(7.1) *Prior to being sworn as a member, an appointee and his immediate family shall divest any financial interest in any applicant, licensed facility or licensed entity and in an affiliate, intermediary, subsidiary or holding company thereof owned or held by the appointee or known to be held by the appointee's immediate family. For the duration of the member's term and for one year thereafter, the member and the member's immediate family may not acquire a financial interest in any applicant, licensed facility or licensed entity or in an affiliate, intermediary, subsidiary or holding company thereof. For purposes of this paragraph, the term "immediate family" shall mean spouse and any minor or unemancipated child.*

(7.2) *Prior to entering into employment or a contract with the board and annually thereafter, an employee or independent contractor shall disclose the existence of any financial interest in any applicant, licensed*

facility or licensed entity and in an affiliate, intermediary, subsidiary or holding company thereof owned or held by the employee or independent contractor or known to be held by the immediate family of the employee or independent contractor. The disclosure statement shall be filed with the board and shall be open to inspection by the public at the office of the board during the normal business hours of the board and for two years after termination of employment or a contract with the board. For purposes of this paragraph, the term "immediate family" shall mean spouse, parent, brother, sister or child.

(7.3) Prior to entering into employment or contracting with the board, an employee or independent contractor and the employee's or independent contractor's immediate family shall divest any financial interest in any applicant, licensed facility or licensed entity, and in an affiliate, intermediary, subsidiary or holding company thereof, owned or held by the employee or independent contractor or known to be held by the immediate family of the employee or independent contractor. For the duration of the employee's employment with the board or the independent contractor's contract with the board and for one year thereafter, the employee or independent contractor and the immediate family thereof shall not acquire, by purchase, gift, exchange or otherwise, any financial interest in any applicant, licensed facility or licensed entity and in any affiliate, intermediary, subsidiary or holding company thereof. For purposes of this paragraph, the term "immediate family" shall mean spouse and any minor or unemancipated child.

(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] No member, employee or independent contractor of the board may directly or indirectly solicit, request, suggest or recommend to any applicant, licensed entity, or an affiliate, intermediary, subsidiary[,] or holding company thereof or to any [officer, attorney, agent or employee] principal, employee, independent contractor or agent thereof, the appointment or employment of any [individual to any office, place or position in or the employment of any individual] person in any capacity by the applicant, licensed entity, [its] or an affiliate, intermediary, subsidiary or holding company thereof for a period of two years from the termination of term of office, employment or contract with the board.

[(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.]

(9) No member may accept employment with any applicant, licensed entity, or an affiliate, intermediary, subsidiary or holding company thereof, for a period of two years from the termination of term of office.

(10) No member may appear before the board on behalf of any applicant, licensed entity, or an affiliate, intermediary, subsidiary or holding company thereof, or any other licensee or permittee for a period of two years from the termination of term of office.

(11) No member [or], employee *or independent contractor* of the board shall *accept a complimentary service*, 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.] *affiliates, intermediaries, subsidiaries or holding companies thereof for the duration of their term of office, employment or contract with the board and for a period of one year from the termination of term of office, employment or contract with the board. The provisions of this paragraph shall not apply to employees who utilize slot machines for testing purposes or to verify the performance of a machine as part of an enforcement investigation.*

(12) A member [of the board] who has been convicted during his term in any domestic or foreign jurisdiction of a felony, *infamous crime [of moral turpitude]* or gambling offense shall, *upon conviction*, be automatically removed from the board and shall be ineligible to become a [board] member in the future. *If an ex officio member is convicted during his term in any domestic or foreign jurisdiction of a felony, infamous crime or gambling offense, the ex officio member shall, upon conviction, be automatically removed from the board, and a designee shall be designated pursuant to subsection (e) to serve the remainder of the ex officio member's term.*

(13) *No employee of the board or individual employed by an independent contractor of the board whose duties substantially involve*

licensing, enforcement or the development or adoption of regulations or policy under this part shall:

(i) accept employment with an applicant or licensed entity, or an affiliate, intermediary, subsidiary or holding company thereof, for a period of one year after the termination of the employment relating to the conduct of gaming or contract with the board; or

(ii) appear before the board in any hearing or proceeding or participate in any other activity on behalf of any applicant, licensee, permittee or licensed entity, or an affiliate, intermediary, subsidiary or holding company thereof, for a period of two years after termination of the employment or contract with the board.

(14) Upon the written request of an employee of the board, the executive branch of the Commonwealth or a political subdivision or of the agency or political subdivision employing an employee, the State Ethics Commission shall determine whether the individual's duties substantially involve the development or adoption of regulations or policy, licensing or enforcement under this part and shall provide a written determination to the employee to include any prohibition under this paragraph. An individual who relies in good faith on a determination under this paragraph shall not be subject to any penalty for an action taken, provided that all material facts set forth in the request for a determination are correct.

(15) If a member, employee or independent contractor of the board violates any provision of this section, the appointing authority or the board may, upon notice and hearing, remove the person from the board, withdraw the appointment or terminate the employment or contract, and the person shall be ineligible for future appointment, employment or contract with the board and for approval of a license or permit under this part for a period of two years thereafter.

(h.1) Fiduciary relationship.—A member or employee of the board shall serve as a fiduciary of the Commonwealth.

(h.2) Standard of care.—Members shall exercise the standard of care required by 20 Pa.C.S. Ch. 73 (relating to municipalities investments) in the performance of their duties under this part.

(h.3) Liability.—Members shall not be personally liable for any of the following:

(1) Obligations of the board.

(2) Actions which were within the scope of their office and made in good faith.

(i) Compensation.—

(1) 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].

(2) Members shall be reimbursed for all necessary and actual expenses.

(3) *Members shall be eligible for retirement under the State Employees' Retirement Code and shall, if the member elects to participate, be considered a State employee for the purposes of 71 Pa.C.S. Pt. XXV (relating to retirement for State employees and officers).*

(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], *infamous crime or gaming* 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.]

(l) **Prohibition against nepotism.**—*No member may solicit, request, suggest or recommend the employment by the board of any individual related within the second degree of consanguinity to the member as set forth in 23 Pa.C.S. § 1304(e) (relating to restrictions on issuance of license) or the spouse of the individual.*

(m) **Employment requirements.**—

(1) *Prospective employees shall submit an application and a personal disclosure form to the board which shall include a complete criminal history, including convictions and current charges for all felonies and misdemeanors.*

(2) *Prospective employees shall be required to undergo testing which detects the presence of illegal substances in the body.*

(3) *The board shall obtain fingerprints and photographs for each prospective employee consistent with the standards adopted by the Pennsylvania State Police.*

(4) *The board shall verify the identification, employment and education of each prospective employee, including:*

(i) *Legal name, including any alias.*

(ii) *All educational institutions attended regardless of graduation status.*

(iii) *Places of residence for the past ten years.*

(iv) *Employment history for the past 15 years.*

(5) *The board shall not hire a prospective employee if the prospective employee:*

(i) has been convicted of a crime that bears a close relationship to the duties and responsibilities of the position for which employment is sought;

(ii) has been dismissed from other employment for gross misconduct; or

(iii) has intentionally made a false statement concerning a material fact in connection with the application to the board.

(6) *The board shall not employ a person unless the requirements of paragraphs (1), (2), (3) and (4) have been met. This paragraph shall apply only to persons employed after the effective date of this subsection.*

(7) *The board shall:*

(i) Immediately refer any criminal matter involving an employee to law enforcement.

(ii) Develop a disciplinary process for an employee charged with a crime or with gross misconduct.

(iii) Immediately suspend from employment any employee charged with a felony.

(iv) Develop a process to discipline all other instances of misconduct.

(8) *Disciplinary action shall be instituted promptly against an employee who, while on or off duty, engages in serious misconduct which may bring the board into disrepute.*

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

“Financial interest.” An ownership, property, leasehold or other beneficial interest in an entity. The term shall not include an interest which is held or deemed to be held in any of the following:

(1) Securities that are held in a pension plan, profit-sharing plan, individual retirement account, tax-sheltered annuity, a plan established pursuant to section 457 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), or any successor provision, deferred compensation plan whether qualified or not qualified under the Internal Revenue Code of 1986, or any successor provision, or other retirement plan that:

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

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

(2) A tuition account plan organized and operated pursuant to section 529 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 529) that is not self-directed by the individual.

(3) *A mutual fund where the interest owned by the mutual fund in a licensed entity does not constitute a controlling interest as defined in this part.*

“Ownership interest.” Owning or holding, or being deemed to hold, debt or equity securities or other ownership interest or profit interest.

Section 3. Title 4 is amended by adding a section to read:

§ 1201.1. *Applicability of other statutes.*

(a) *General rule.—The following acts shall apply to the board:*

(1) *The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.*

(2) *The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.*

(3) *The provisions of 65 Pa.C.S. Chs. 7 (relating to open meetings) and 11 (relating to ethics standards and financial disclosure).*

(b) *Status of board.—*

(1) *The board shall be considered an independent agency for the purposes of the following:*

(i) *62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code). The expediting of the payment of revenue to the Commonwealth shall not be grounds for an emergency procurement by the board.*

(ii) *The act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.*

(2) *The board shall be considered an agency for the purposes of the following:*

(i) *The act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.*

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

Section 4. Section 1202 of Title 4 is amended to read:

§ 1202. *General and specific powers.*

(a) *General powers.—*

(1) *The board shall have general [jurisdiction] and sole regulatory authority over [all gaming activities] the conduct of gaming 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] sole regulatory authority over every aspect of the authorization and operation of slot machines.*

(2) *The board shall employ [an executive director, chief counsel, deputies, secretaries, officers, hearing officers and agents as it may deem necessary] individuals as necessary to carry out the powers and duties of the board, 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] *An employee of the board shall be considered a State employee for purposes of 71 Pa.C.S. Pt. XXV (relating to retirement for State employees and officers). For the purposes of this paragraph, the board shall not be considered an executive or independent agency under the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.*

(3) In addition to employees authorized by the board, each member may employ one special assistant whose classification and compensation shall be established by the board. A special assistant shall be a State employee for purposes of 71 Pa.C.S. Pt. XXV, shall serve at the pleasure of the member and may only be removed by the board for cause.

(4) The board shall establish a system of 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.]

(5) Within 90 days of the effective date of this paragraph, the board shall publish in the Pennsylvania Bulletin and on the board's Internet website the classification system for all employees of the board.

(6) A request for proposal to conduct investigations of employees and applicants under this part shall include a requirement that an offeror provide the number of employees of the offeror who will be engaged in the conduct of investigations and who are residents of this Commonwealth and annuitants of a Federal, State or local law enforcement agency. Preference shall be given to an offeror with a substantial number of employees who will be engaged in the conduct of investigations and who are residents of this Commonwealth and annuitants of a Federal, State or local law enforcement agency.

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

(1) To adopt, use and alter a corporate seal.

(2) To pay or satisfy obligations of the board.

(3) To sue or be sued, implead and be impleaded, or interplead.

(4) To contract and execute instruments as necessary to carry out the powers and duties of the board. Contracts for the purchase of supplies, services and construction shall be for a term not to exceed two years.

(5) To sell, transfer, convey and dispose of tangible or intangible property owned by the board.

(6) To establish, charge and collect fees and fines as authorized by this part.

(7) To administer oaths, examine witnesses and issue subpoenas compelling the attendance of witnesses or the production of documents and records or other evidence. The provisions of this paragraph shall apply to designated officers and employees.

(8) To purchase insurance against a loss related to the board's property or assets.

(8.1) To retain¹ attorneys, accountants, auditors and financial and other experts to render services as necessary. For the purposes of this paragraph, the board shall be considered an independent agency for purposes of the Commonwealth Attorneys Act.

(9) To require background investigations on [prospective or existing] applicants, licensees, principals, key employees or permittees [or persons holding a controlling interest in any prospective or existing licensee or permittee] under the jurisdiction of the board.

[(2)] (10) 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)] (11) For purposes of licensing and enforcement and for purposes of the background investigation, [the board may] to receive information otherwise protected by 18 Pa.C.S. Ch. 91 (relating to criminal history record information).

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

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

[(6)] (14) At its discretion, to issue, approve, renew, revoke, suspend, condition or deny issuance or renewal of [occupation permits] a license or permit for various classes of employees as required under this part.

[(7)] (15) 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 prohibitions).]

[(8)] (16) 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

¹“(8.1) Retain” in enrolled bill.

violation of this part.

[(9)] (17) To require *prospective and existing employees, independent contractors*, applicants **[for licenses and permits]**, *licensees and permittees* 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]** *individual* and obtaining records of criminal arrests and convictions.

[10] (18) *To require prospective and existing employees, independent contractors, applicants, licensees and permittees to submit photographs consistent with the standards of the Commonwealth Photo Imaging Network.*

(19) *To levy fines or other sanctions against an applicant, licensed entity or other licensee, permittee or employee of the board who possesses, uses, sells or offers for sale any device, equipment or material subject to this part in a manner which constitutes a violation of this part.*

(20) 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)] (21) 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)] (22) 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]**, 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)] (23) 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)] (24) 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] the** 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)] (25) 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] to** 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.

[(18)] (26) 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.] and for investigating a person applying for a determination that an individual has been rehabilitated under this part.**

(27) *To publish each January in the Pennsylvania Bulletin and on the board's Internet website a complete list of all persons or entities who applied for or held a slot machine license, manufacturer license, supplier license or racetrack license at any time during the preceding*

calendar year and all affiliates, intermediaries, subsidiaries and holding companies thereof and the status of the application or license.

(28) To prepare and, through the Governor, submit annually to the General Assembly an itemized budget consistent with Article VI of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, consisting of the amounts necessary to be appropriated by the General Assembly out of the accounts established under section 1401 (relating to slot machine licensee deposits) required to meet the obligations accruing during the fiscal period beginning July 1 of the following year. The budget shall include itemized recommendations for the Attorney General, the department and the Pennsylvania State Police as to the amount needed to meet their obligations under this part.

(29) In the event that, in any year, appropriations for the administration of this part are not enacted by June 30, any funds appropriated for the administration of this part which are unexpended, uncommitted and unencumbered at the end of a fiscal year shall remain available for expenditure by the board or other agency to which they were appropriated until the enactment of appropriation for the ensuing fiscal year.

(30) To promulgate rules and regulations necessary for the administration and enforcement of this part, including regulations in cooperation with the Pennsylvania Liquor Control Board and regulations relating to the sale and service of liquor and malt and brewed beverages by licensees. Except as provided in section 1203 (relating to temporary regulations), regulations shall be adopted pursuant to the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, and the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

Section 5. Title 4 is amended by adding a section to read:

§ 1202.1. Code of conduct.

(a) Scope.—The board shall adopt a comprehensive code of conduct prior to the consideration of any license, permit or registration application. The code of conduct shall supplement all other requirements under this part and 65 Pa.C.S. Pt. II (relating to accountability) and shall provide guidelines applicable to members, employees, independent contractors of the board and the immediate families of the members, employees and independent contractors to enable them to avoid any perceived or actual conflict of interest and to promote public confidence in the integrity and impartiality of the board. At a minimum, the code of conduct adopted under this section shall include registration under subsection (b) and the restrictions under subsection¹ (c).

(b) Registration.—

¹“restrictions in subsection” in enrolled bill.

(1) A licensed entity representative shall register with the board in a manner prescribed by the board, which shall include the name, employer or firm, address, telephone number and the licensed entity being represented.

(2) A licensed entity representative shall have an ongoing duty to update its registration information on an ongoing basis.

(3) The registration list shall be available for public inspection at the offices of the board and on the board's Internet website.

(c) Restrictions.—A member of the board shall:

(1) Not engage in any ex parte communication with any person.

(2) Not accept any discount, gift, gratuity, compensation, travel, lodging or other thing of value, directly or indirectly, from any applicant, licensee, permittee, registrant or licensed entity representative thereof.

(3) Disclose and disqualify himself from any proceeding in which the member's objectivity, impartiality, integrity or independence of judgment may be reasonably questioned due to the member's relationship or association with a party connected to any proceeding or a person appearing before the board.

(4) Refrain from any financial or business dealing which would tend to reflect adversely on the member's objectivity, impartiality or independence of judgment.

(5) Not hold or campaign for public office, hold an office in any political party or political committee, contribute to or solicit contributions to a political campaign, party, committee or candidate, publicly endorse a candidate or actively participate in a political campaign.

(6) Not solicit funds for any charitable, educational, religious, health, fraternal, civic or other nonprofit entity from an applicant, licensed entity or affiliate, subsidiary, intermediary or holding company of a licensed entity, interested party or licensed entity representative. A board member may serve as an officer, employee or member of the governing body of a nonprofit entity and may attend, make personal contributions to and plan or preside over the entity's fundraising events. A board member may permit his name to appear on the letterhead used for fundraising events if the letterhead contains only the board member's name and position with the nonprofit entity.

(7) Not meet or engage in discussions with any applicant, person licensed under this part or a licensed entity representative unless the meeting or discussion occurs on the business premises of the board and is recorded in a log maintained for this purpose. The log shall be available for public inspection during the regular business hours of the board. The provisions of this paragraph shall not apply to meetings of the board to consider matters requiring the physical inspection of the

equipment or premises of an applicant or a licensed entity at their location.

(8) Avoid impropriety and the appearance of impropriety at all times and observe standards and conduct that promote public confidence in the oversight of gaming.

(9) Comply with any other laws, rules or regulations relating to the conduct of a member.

(d) Ex officio members.—The restrictions under subsection (c)(5) shall not apply to ex officio members.

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

“Ex parte communication.” An off-the-record communication by a member or employee of the board regarding the merits of or any fact in issue relating to a pending matter before the board or which may reasonably be expected to come before the board in a contested on-the-record proceeding. The term shall not include off-the-record communications by or between a member or employee of the board, Department of Revenue, Pennsylvania State Police, Attorney General or other law enforcement official prior to the beginning of the proceeding solely for the purpose of seeking clarification or correction to evidentiary materials intended for use in the proceedings.

“Licensed entity representative.” A person acting on behalf of or representing the interest of any applicant, licensee, permittee or registrant, including an attorney, agent or lobbyist, regarding any matter which may reasonably be expected to come before the board.

Section 6. Sections 1203, 1204, 1205, 1206(a), (b), (c), (d) and (f), 1207(6), 1208(1), 1209(a), 1210, 1211, 1213, 1304, 1305, 1306, 1309(a)(1) and 1311 of Title 4 are amended to read:

§ 1203. Temporary regulations.

(a) Promulgation.—[Notwithstanding any other provision of law to the contrary and in] 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]. The board may promulgate temporary regulations not subject to:

(1) Sections 201 [through 205], 202 and 203 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] *April 15, 2007*. Regulations adopted after [the two-year] *this period* shall be promulgated as provided by law.

§ 1204. Licensed *gaming* 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] *a slot machine license*. 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] *a slot machine license* 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[.]; *public input hearings*.

(a) *General rule.*—The board's consideration and resolution of all license or permit applications shall be conducted in accordance with 2 Pa.C.S. (relating to administrative law and procedure) or with procedures adopted by order of the board. Notwithstanding the [mandates] requirements 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] *as they relate to the conduct of oral hearings, the board may adopt procedures to provide parties before it with a documentary hearing, [but] and the board may[, at its discretion,] resolve disputed material facts without conducting an oral hearing where constitutionally permissible.*

(b) *Public input hearing requirement.*—

(1) *Prior to licensing a facility under this part, the board shall hold at least one public input hearing on the matter.*

(2) *All public input hearings relating to an application for a slot machine license shall be held in the municipality where the facility will be located and shall be organized in cooperation with the municipality.*

(3) *A list of all witnesses scheduled to testify at a public input hearing shall be made public at least seven days prior to the hearing. The list shall be updated at least three days prior to the hearing. Additional witnesses shall be posted on the board's Internet website as they are added to the list.*

§ 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] *The verbatim transcript of those proceedings shall be the property of the board and* 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]** *The list shall include* a record of all actions taken with respect to **[the applicants, which file and record]** *each applicant. The list* shall be open to public inspection *during the normal business hours of the board.*

(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.

* * *

(f) Confidentiality of information.—All information **[contained in the application process]** *submitted by an applicant* 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 *as part of a background investigation* from any source shall be considered confidential **[and]**. *Except as provided in section 1517(f) (relating to investigation and enforcement), the information* 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.

* * *

§ 1207. Regulatory authority of board.

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

* * *

(6) Prescribe criteria and conditions for the operation of slot machine progressive systems. *A wide area progressive slot system shall be collectively administered by participating slot machine licensees in accordance with the terms of a written agreement executed by each participating slot machine licensee and approved by the board.*

* * *

§ 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) *and distributed to the board upon appropriation by the General Assembly.* 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 **or registrant** shall be reimbursed to the board by those persons.

* * *

§ 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 *for a conditional Category 1, a Category 1 or a Category 2 license* in the amount of \$50,000,000 **[for each category of slot machine license.] and deposited in the State Gaming Fund. No fee shall be imposed by the board for a Category 1 license if the applicant has paid a \$50,000,000 fee for a conditional Category 1 license.**

* * *

§ 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.

(c) Limitation.—For the two and one-half years following the beginning of slot machine operations at the licensed facility, no licensed gaming entity may make available for play by its patrons at its licensed facility more than 50% of slot machines from the same manufacturer or its affiliate, intermediary, subsidiary or holding company. The provisions of this subsection shall not apply to machines purchased pursuant to a contract or order executed by a conditional Category 1 or Category 1 slot machine licensee prior to October 20, 2006.

§ 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.

(d) Reports to General Assembly.—The board shall conduct an ongoing review of the operation of this part and the impact of gaming in this Commonwealth, including review of other jurisdictions, Federal laws, academic research and public input. The board shall submit an annual report to the General Assembly by December 30. The report shall include recommendations for changes to this part or in the operation or regulation of licensed entities. The report shall be submitted to the Majority Leader and Minority Leader of the Senate and the Majority Leader and Minority Leader of the House of Representatives and the chair and minority chair of the standing committees in the Senate and the chair and minority chair of the standing committees in the House of Representatives with jurisdiction over the board. The report shall be posted by the board on its Internet website.

§ 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.] *No applicant for a license or permit under this part, including principals and key employees, who has been convicted of a felony or gambling offense in any jurisdiction shall be issued a license or permit unless 15 years has elapsed from the date of expiration of the sentence for the offense. When determining whether to issue a license or permit to an applicant who has been convicted in any jurisdiction of a felony or gambling offense, the board shall consider the following factors:*

(1) The nature and duties of the applicant's position with the licensed entity.

(2) The nature and seriousness of the offense or conduct.

(3) The circumstances under which the offense or conduct occurred.

(4) The age of the applicant when the offense or conduct was committed.

(5) Whether the offense or conduct was an isolated or a repeated incident.

(6) Any evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received and the recommendation of persons who have substantial contact with the applicant.

§ 1304. Category 2 slot machine license.

(a) Eligibility.—

(1) 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.

(2) If the person seeking a slot machine license proposes to place the licensed facility upon land designated a subzone, an expansion subzone or an improvement subzone under 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, the person shall, at any time prior to the application being approved, submit a statement waiving the exemptions, deductions, abatements or credits granted under the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act if the board approves the application.

(b) Location.—

(1) 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.

(2) *Within five days of approving a license for an applicant with a proposed licensed facility consisting of land designated a subzone, an expansion subzone or an improvement subzone under the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act for a slot machine license under this section, the board shall notify the Department of Community and Economic Development. The notice shall include a description of the land of the proposed licensed facility which is designated a subzone, an expansion subzone or an improvement subzone. Within five days of receiving the notice required by this paragraph, the Secretary of Community and Economic Development shall decertify the land of the*

proposed licensed facility as being a subzone, an expansion subzone or an improvement subzone. Upon decertification in accordance with this paragraph and notwithstanding Chapter 3 of the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act, a political subdivision may amend the ordinance, resolution or other required action which granted the exemptions, deductions, abatements or credits required by the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act to repeal the exemptions, deductions, abatements or credits for the land decertified.

§ 1305. Category 3 slot machine license.

(a) Eligibility.—

(1) 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.

(2) *Notwithstanding section 1512(a) and (a.1) (relating to public official financial interest), if at the time of application an applicant has terminated public office or employment as an executive-level public employee within the last calendar year, the applicant shall be eligible to apply for a slot machine license under this section but may not be issued a license until one year following the date of termination as a public official or executive-level public employee. An application submitted in accordance with this paragraph shall not constitute a violation of section 1512(a) or (a.1).*

(3) *If the person seeking a slot machine license proposes to place the licensed facility upon land designated a subzone, an expansion subzone or an improvement subzone under 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, the person shall, at any time prior to the application being approved, submit a statement waiving the exemptions, deductions, abatements or credits granted under the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act if the board approves the application.*

(b) Location.—

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

(2) *Within five days of approving a license for an applicant with a proposed licensed facility consisting of land designated a subzone, an expansion subzone or an improvement subzone under the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act for a slot machine license under this section, the board shall notify the Department of Community and Economic Development. The notice shall include a description of the land of the proposed licensed facility which is designated a subzone, an expansion subzone or an improvement subzone. Within five days of receiving the notice required by this paragraph, the Secretary of Community and Economic Development shall decertify the land of the proposed license facility as being a subzone, an expansion subzone or an improvement subzone. Upon decertification in accordance with this paragraph and notwithstanding Chapter 3 of the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act, a political subdivision may amend the ordinance, resolution or other required action which granted the exemptions, deductions, abatements or credits required by the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act to repeal the exemptions, deductions, abatements or credits for the land decertified.*

(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] the** amount of \$5,000,000 *to be deposited in the State Gaming Fund*. 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. *The board shall approve, approve with condition or deny all initial applications for conditional Category 1 licenses under section 1315 (relating to conditional Category 1 licenses) prior to considering applications for Category 1, Category 2 or Category 3 slot machine licenses.*

§ 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[,] *and* 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.

* * *

§ 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.] *Additional slot machine license requirements.*

(a) Additional eligibility requirements.—In order to be eligible for a slot machine license under this part, the principals and key employees of the applicant shall obtain a license to meet the character requirements of section 1310 (relating to slot machine license application character requirements) or other eligibility requirements established by the board.

(b) Classification system.—The board shall develop a classification system for other agents, employees or persons who directly or indirectly hold or are deemed to be holding debt or equity securities or other financial interest in the applicant and for other¹ persons which the board considers appropriate for review under section 1310.

(c) Related entities.—

(1) Except as provided in paragraph (2), no person shall be eligible to receive a slot machine license unless the principals and key employees of each intermediary, subsidiary or holding company of the person meet the requirements of subsection (a).

(2) The board may require that lenders and underwriters of intermediaries, subsidiaries or holding companies of a slot machine license applicant meet the requirements of subsection (a) if the board determines that the suitability of a lender or underwriter is at issue and is necessary to consider a pending application for a slot machine license.

(d) Revocable privilege.—The issuance or renewal of a license, permit or other authorization by the board under this section shall be a revocable privilege.

(e) Waiver for publicly traded corporations.—The board may waive the requirements of subsection (a) for a person directly or indirectly holding ownership of securities in a publicly traded corporation if the board determines that the holder of the securities 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.

(f) Waiver for subsidiaries.—If the applicant is a subsidiary, the board may waive the requirements of subsection (a) for a holding company or intermediary as follows:

(1) If the applicant is a publicly traded corporation, the board may issue a waiver under this subsection if it determines that the principal or key employee does not have the ability to control, have a controlling interest in or elect one or more directors of the holding company or intermediary and is not actively involved in the activities of the applicant.

(2) If the applicant is a noncorporate organization, the board may issue a waiver under this subsection for a person who directly or

¹“and other” in enrolled bill.

indirectly holds a beneficial or ownership interest in the applicant if it determines that the person does not have the ability to control the applicant.

(g) Ongoing duty.—A person applying for a license, permit or other authorization under this part shall have the continuing duty to provide information required by the board or the bureau and to cooperate in any inquiry or investigation.

(h) Criminal history record check.—The board shall conduct a criminal history record check on any person for whom a waiver is granted under this section.

Section 7. Title 4 is amended by adding sections to read:

§ 1311.1. Licensing of principals.

(a) License required.—All principals shall obtain a principal license from the board.

(b) Application.—A principal license application shall be in a form prescribed by the board and shall include the following:

(1) Verification of status as a principal from a slot machine licensee, manufacturer licensee or supplier licensee.

(2) A description of responsibilities as a principal.

(3) All releases necessary to obtain information from governmental agencies, employers and other organizations.

(4) Fingerprints, which shall be submitted to the Pennsylvania State Police.

(5) A photograph that meets the standards of the Commonwealth Photo Imaging Network.

(6) Details relating to a similar license, permit or other authorization obtained in another jurisdiction.

(7) Any additional information required by the board.

(c) Issuance.—Following review of the application and the background investigation, the board may issue a principal license if the applicant has proven by clear and convincing evidence that the applicant is a person of good character, honesty and integrity and is eligible and suitable to be licensed as a principal.

(d) Nontransferability.—A license issued under this section shall be nontransferable.

(e) Principals.—An individual who receives a principal license need not obtain a key employee license.

§ 1311.2. Licensing of key employees.

(a) License required.—All key employees shall obtain a key employee license from the board.

(b) Application.—A key employee license application shall be in a form prescribed by the board and shall include the following:

(1) Verification of status as a key employee from a slot machine licensee, manufacturer licensee or supplier licensee.

(2) A description of employment responsibilities.

(3) *All releases necessary to obtain information from governmental agencies, employers and other organizations.*

(4) *Fingerprints, which shall be submitted to the Pennsylvania State Police.*

(5) *A photograph that meets the standards of the Commonwealth Photo Imaging Network.*

(6) *Details relating to a similar license, permit or other authorization obtained in another jurisdiction.*

(7) *Any additional information required by the board.*

(c) *Issuance.—Following review of the application and the background investigation, the board may issue a key employee license if the applicant has proven by clear and convincing evidence that the applicant is a person of good character, honesty and integrity and is eligible and suitable to be licensed as a key employee.*

(d) *Nontransferability.—A license issued under this section shall be nontransferable.*

Section 7.1. Sections 1313(e) and 1317 of Title 4 are amended to read:
 § 1313. Slot machine license application financial fitness requirements.

* * *

(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 a steady level [and] of 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.*

* * *

§ 1317. Supplier [and manufacturer] licenses [application].

(a) *Application.—[Any] A manufacturer that elects to contract with a supplier under section 1317.1(d.1) (relating to manufacturer licenses) shall ensure that the supplier is licensed under this section. A 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] through a contract with a licensed manufacturer 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] *An* application for a supplier [or manufacturer license shall include, at a minimum:] *license shall be on the form required by the board, accompanied by the application fee, and shall include all of the following:*

(1) The name and business address of the applicant[,], *and the applicant's affiliates, intermediaries, subsidiaries and holding companies;* the [directors and owners of the applicant] *principals and key employees of each business;* and a list of employees and their positions within [the] *each* business, as well as any financial information required by the board.

(1.1) A statement that the applicant and each affiliate, intermediary, subsidiary or holding company of the applicant are not slot machine licensees.

(1.2) Proof that the applicant has or will establish a principal place of business in this Commonwealth. A supplier licensee shall maintain its principal place of business in this Commonwealth to remain eligible for licensure.

(2) The consent to a background investigation of the applicant, its [officers, directors, owners,] *principals and* 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 *as authorized by this part* 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.

(c) Review and approval.—Upon being satisfied that the requirements of subsection (b) have been met, the board may approve the application and issue the applicant a supplier license consistent with all of the following:

(1) The license shall be for a period of one year. Upon expiration, the license may be renewed in accordance with subsection (d).

(2) The license shall be nontransferable.

(3) Any other condition established by the board.

(d) Renewal.—

(1) Two months prior to expiration of a supplier license, the supplier licensee seeking renewal of its license shall submit a renewal application accompanied by the renewal fee to the board.

(2) If the renewal application satisfies the requirements of subsection (b), the board may renew the licensee's supplier license.

(3) If the board receives a complete renewal application but fails to act upon the renewal application prior to the expiration of the supplier license, the supplier license shall continue in effect for an additional six-month period or until acted upon by the board, whichever occurs first.

(e) Prohibitions.—No limitation shall be placed on the number of supplier licenses issued or the time period to submit applications for licensure except as required to comply with section 1306 (relating to order of initial license issuance).

Section 7.2. Title 4 is amended by adding a section to read:

§ 1317.1. Manufacturer licenses.

(a) Application.—A person seeking to manufacture slot machines and associated equipment for use in this Commonwealth shall apply to the board for a manufacturer license.

(b) Requirements.—An application for a manufacturer license shall be on the form required by the board, accompanied by the application fee, and shall include all of the following:

(1) The name and business address of the applicant and the applicant's affiliates, intermediaries, subsidiaries and holding companies; the principals and key employees of each business; and a list of employees and their positions within each business, as well as any financial information required by the board.

(2) A statement that the applicant and each affiliate, intermediary, subsidiary or holding company of the applicant are not slot machine licensees.

(3) The consent to a background investigation of the applicant, its principals and 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.

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

(5) The type of slot machines or associated equipment to be manufactured or repaired.

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

(c) *Review and approval.—Upon being satisfied that the requirements of subsection (b) have been met, the board may approve the application and grant the applicant a manufacturer license consistent with all of the following:*

(1) *The license shall be for a period of one year. Upon expiration, a license may be renewed in accordance with subsection (d).*

(2) *The license shall be nontransferable.*

(3) *Any other condition established by the board.*

(d) *Renewal.—*

(1) *Six months prior to expiration of a manufacturer license, the manufacturer licensee seeking renewal of its license shall submit a renewal application accompanied by the renewal fee to the board.*

(2) *If the renewal application satisfies the requirements of subsection (b), the board may renew the licensee's manufacturer license.*

(3) *If the board receives a complete renewal application but fails to act upon the renewal application prior to the expiration of the manufacturer license, the manufacturer license shall continue in effect for an additional six-month period or until acted upon by the board, whichever occurs first.*

(d.1) *Authority.—The following shall apply to a licensed manufacturer:*

(1) *A licensed manufacturer or its designee, as licensed by the board, may supply or repair any slot machine or associated equipment manufactured by the licensed manufacturer.*

(2) *A manufacturer may contract with a supplier under section 1317 (relating to supplier licenses) to provide slot machines or associated equipment to a slot machine licensee within this Commonwealth.*

(e) *Prohibitions.—*

(1) *No person may manufacture slot machines or associated equipment for use within this Commonwealth by a slot machine licensee unless the person has been issued a manufacturer license under this section.*

(2) *No slot machine licensee may use slot machines or associated equipment unless the slot machines or associated equipment were manufactured by a person that has been issued a manufacturer license under this section.*

(3) *No person issued a license under this section shall apply for or be issued a license under section 1317.*

(4) *No limitation shall be placed on the number of manufacturer licenses issued or the time period to submit applications for licensure, except as required to comply with section 1306 (relating to order of initial license issuance).*

Section 8. Sections 1318(b)(4) and 1323(a) of Title 4 are amended to read:

§ 1318. Occupation permit application.

* * *

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

* * *

(4) A photograph [**and handwriting exemplar**] of the person.

* * *

§ 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.

(2.1) The delivery of a system that has the ability to verify software, detect alterations in payout and detect other methods of fraud in all aspects of the operation of slot machines.

(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.

* * *

Section 8.1. Section 1325 of Title 4 is amended by adding a subsection to read:

§ 1325. License or permit issuance.

* * *

(d) Trusts and similar business entities.—The board shall determine the eligibility of a trust or similar business entity to be a licensed entity in accordance with the following:

(1) No trust or similar business entity shall be eligible to hold any beneficial interest in a licensed entity under this part unless each trustee, grantor and beneficiary of the trust, including a minor child beneficiary, qualifies for and is granted a license as a principal. The board may waive compliance with this paragraph if the trustee is a banking or lending institution and the board is satisfied that the trustee is not significantly involved in the activities of the licensed entity. In addition to other information required by the board, a banking or lending institution acting as a trustee shall produce at the request of the board any documentation or information relating to the trust.

(2) No beneficiary of a trust or similar business entity who is a minor child shall control or be significantly involved in the activities of a licensed entity or its holding company or intermediary. No beneficiary of a trust or similar business entity who is a minor child shall be permitted to vote to elect directors of a licensed entity or its holding company or intermediary.

(3) No trust or similar business entity may hold any beneficial interest in a licensed entity unless the board determines that the trust or similar business entity is not engaged in any activity or otherwise being used to evade the public protections under this part, including sections 1512 (relating to financial and employment interests) and 1513 (relating to political influence).

Section 8.2. Sections 1327 and 1402 of Title 4 are amended to read:

§ 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.

§ 1402. Gross terminal revenue deductions.

(a) Deductions.—After determining the appropriate assessments for each slot machine licensee, the department shall **[deduct the following]** *determine* costs, expenses or payments from each account established under section 1401 (relating to slot machine licensee deposits). ***The following costs and expenses shall be transferred to the appropriate agency upon appropriation by the General Assembly:***

(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.] (Reserved).**

Section 8.3. Title 4 is amended by adding a section to read:

§ 1402.1. Itemized budget reporting.

The board, department, Pennsylvania State Police and the Attorney General shall prepare and annually submit to the chairman of the Appropriations Committee of the Senate and the chairman of the Appropriations Committee of the House of Representatives an itemized budget consisting of amounts to be appropriated out of the accounts established under section 1401 (relating to slot machine licensee deposits) necessary to administer this part.

Section 9. Section 1403(b) and (c)(2)(i)(D) and (E), (ii)(E), (iii)(A), (E) and (F), (iv) and (ix) and (3)(i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) of Title 4 are amended, subsection (c)(2)(iii) is amended by adding a clause, subsection (c)(3) is amended by adding a subparagraph and the section is amended by adding a subsection to read:

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

* * *

(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.]** *The department shall determine and each slot machine licensee shall pay a daily tax of 34% from its daily gross terminal revenue from the slot machines in operation at its facility and a local share assessment as provided in subsection (c) into the fund. All funds owed to the Commonwealth or a municipality under this section shall be held in trust by the licensed gaming entity until the funds are paid or transferred and distributed. Unless otherwise agreed to by the Gaming Board, a licensed gaming entity shall establish a separate bank account to maintain gaming proceeds until such time as they are paid or transferred under this section.*

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

* * *

(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:

* * *

(D) (I) A county of the third class: ***Except as provided in subclause (II)***, 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.

(II) If a licensed facility is located in one of two counties of the third class where a city of the third class is located in both counties of the third class, the county in which the licensed facility is located shall receive 1.2% of the gross terminal revenue to be distributed as follows: 20% to the host city, 30% to the host county and 50% to the host county for the purpose of making municipal grants within the county, with priority given to municipalities contiguous to the host city. The county of the third class, which includes a city of the third class that is located in two counties of the third class and is not the host county for the licensed facility, shall receive .8% of the gross terminal revenue to be distributed as follows: 60% to a nonhost city of the third class located solely in the nonhost county in which the host city of the third class is also located or 60% to the nonhost city of the third class located both in the host and nonhost counties of the third class, 35% to the nonhost county and 5% to the nonhost county for the purpose of making municipal grants within the county.

(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.

* * *

(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:

* * *

(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.

* * *

(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 a county of the first class shall not be distributed outside of a county of the first class. *The first \$5,000,000 of the total amount distributed annually to the county of the first class shall be distributed to the Philadelphia School District.*

* * *

(D.1) If a licensed facility is located in one of two counties of the third class where a city of the third class is located in both counties of the third class, the county in which the licensed facility is located shall receive 1.2% of the gross terminal revenue to be distributed as follows: 20% to the host city, 30% to the host county and 50% to the host county for the purpose of making municipal grants within the county, with priority given to municipalities contiguous to the host city. The county of the third class, which includes a city of the third class that is located in two counties of the third class and is not the host county for the licensed facility, shall receive .8% of the gross terminal revenue to be distributed as follows: 60% to a nonhost city of the third class located solely in the nonhost county in which the host city of the third class is also located or 60% to the nonhost city of the third class located both in the host and nonhost counties of the third class, 35% to the nonhost county and 5% to the nonhost county for the purpose of making municipal grants within the county.

(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] 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 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.] and distributed as follows:**

(I) One percent shall be deposited into a restricted receipts account in the Department of Community and Economic Development to be used exclusively for grants within the county for economic development projects, community improvement projects and other projects in the public interest within the county. The amount under this subclause includes reasonable administrative costs.

(II) One percent shall be deposited into a restricted receipts account in the Department of Community and Economic Development to be used exclusively for grants within contiguous counties for economic development projects, community improvement projects and other projects in the public interest within contiguous counties. The amount under this subclause includes reasonable administrative costs.

(III) Fifty percent of any revenue required to be transferred under paragraph (3)(v) shall be deposited into the restricted receipts account established under subclause (I), and 50% shall be deposited into the restricted receipt account established under subclause (II). 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.

* * *

(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.

* * *

(ix) Nothing in this paragraph shall prevent any of the above counties *which directly receive a distribution under this section* 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]** *shall be paid by each licensed gaming entity operating a facility* 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.] subparagraph, the department shall collect the remainder of the minimum amount of \$10,000,000 from each licensed gaming entity operating a facility in the city and deposit that amount in the city treasury.**

(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]** *shall be paid by each licensed entity operating a licensed facility* 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 *collected by the department from each licensed gaming entity and* distributed in accordance with paragraph (2) based upon the *classification of* 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.] the department shall collect the remainder of the minimum amount of \$10,000,000 from each licensed gaming entity operating a facility in the city, pay any balance due to the city and transfer any remainder in accordance with paragraph (2).

(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] *shall be paid by each licensed gaming entity operating a licensed facility* 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.] *In the event that the city has a written agreement with a licensed gaming entity executed prior to the effective date of this part, the amount paid under the agreement to the city shall be applied and credited to the difference between 2% of the gross terminal revenue and the \$10,000,000 owed under this subparagraph if the 2% of the gross terminal revenue is less than \$10,000,000. If 2% of the gross terminal revenue is greater than the \$10,000,000 required to be paid under this subparagraph, the credit shall not apply. The amount of gross terminal revenue required to be paid pursuant to the agreement shall be deemed to be gross terminal revenue for purposes of 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 *collected by the department from each licensed gaming entity and* distributed in accordance with paragraph (2) based upon the *classification of* 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.] *the department shall collect the remainder of the minimum amount of \$10,000,000 from each licensed gaming entity*

operating a facility, pay any balance due to the city of the third class and transfer any remainder in accordance with paragraph (2).

(iii.1) If a licensed facility is located in a city of the third class and the city is located in more than one county of the third class, 2% of the gross terminal revenue or \$10,000,000 annually, whichever is greater, shall be distributed as follows: 80% to the host city and 20% to the city of the third class located solely in a nonhost county in which the host city of the third class is also located. If a licensed facility is located in a city of the third class and that city is located solely in a host county of the third class in which a nonhost city of the third class is also located, 2% of gross terminal revenue or \$10,000,000 annually, whichever is greater, shall be distributed as follows: 80% to the host city and 20% to a city of the third class located both in a nonhost county of the third class and in a host county of the third class in which the host city of the third class is located.

(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] shall be paid by each licensed gaming entity operating a licensed facility 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 collected by the department from each licensed gaming entity and distributed in accordance with paragraph (2) based upon the classification of 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.] the department shall collect the remainder of the minimum amount of \$10,000,000 from each licensed gaming entity operating a licensed facility in the township, pay any balance due to the township and transfer any remainder in accordance with paragraph (2).

(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]** *shall be paid by each licensed gaming entity operating a licensed facility* 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 *collected by the department from each licensed gaming entity and* distributed in accordance with paragraph (2) based upon the *classification of* county where the licensed facility **[or facilities]** is located. *Where the licensed facility is other than a Category 3 and is located in more than one second class township, the county commissioners of the county of the third class in which the facility is located shall appoint an advisory committee for the purpose of advising the county as to the need for municipal grants for health, safety, transportation and other projects in the public interest to be comprised of two individuals from the host municipality, two from contiguous municipalities within the county of the third class and one from the host county. A county other than a county of the third class in which the licensed facility is located is not required to appoint an advisory committee and may use funds received under this subparagraph for purposes other than municipal grants.* 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.]** *the department shall collect the remainder of the minimum amount of \$10,000,000 from each licensed gaming entity operating a licensed facility in the township, pay any balance due to the township and transfer any remainder in accordance with paragraph (2).*

(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]** *shall be paid by each licensed gaming entity operating a licensed facility* 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 *collected by the department from each licensed gaming entity and* distributed in accordance with paragraph (2) based upon the *classification of* 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.] *the department shall collect the remainder of the minimum amount of \$10,000,000 from each licensed gaming entity operating a licensed facility in the borough, pay any balance due to the borough and transfer any remainder in accordance with paragraph (2).*

(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] *shall be paid by each licensed entity operating a licensed facility* 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 *collected by the department from each licensed gaming entity and* distributed in accordance with paragraph (2) based upon the *classification of* 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.] *the department shall collect the remainder of the minimum amount of \$10,000,000 from each licensed gaming entity operating a licensed facility in the incorporated town, pay any balance due to the town and transfer any remainder in accordance with paragraph (2).*

(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 *collected by the department from each licensed gaming entity and* distributed in accordance with paragraph (2) based upon the *classification of* county where the licensed facility **[or facilities]** is located.

* * *

(d) Consumer Price Index.—For purposes of subsection (c), references to the Consumer Price Index shall mean 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.

Section 9.1. Sections 1406(a) and 1506 of Title 4 are amended to read:

§ 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] shall** 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] For** thoroughbred tracks, 16% **[to] shall** 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] For** standardbred tracks, 8% **[to] shall** 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] shall** 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] shall** 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.

(2) (Reserved).

§ 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.] *Licensed facility zoning and land use appeals.*

In order to facilitate timely implementation of casino gaming as provided in this part, notwithstanding 42 Pa.C.S. § 933(a)(2) (relating to appeals from government agencies), the Supreme Court of Pennsylvania is vested with exclusive appellate jurisdiction to consider appeals of a final order, determination or decision of a political subdivision or local instrumentality involving zoning, usage, layout, construction or occupancy, including location, size, bulk and use of a licensed facility. The court, as appropriate, may appoint a master to hear an appeal under this section.

Section 10. Sections 1509(a), (b) and (d) and 1512 of Title 4 are amended to read:

§ 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 guidelines shall include strategies for the prevention of compulsive and problem gambling. The Department of Health may consult with the board and licensed gaming entities to develop such strategies.* 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 *addiction* 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.

* * *

(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 **[addition]** *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).

* * *

§ 1512. **[Public official financial interest.] *Financial and employment interests.***

[(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.]

(a) Financial interests.—Except as may be provided for the judiciary by rule or order of the Pennsylvania Supreme Court, an executive-level public employee, public official or party officer, or an immediate family member thereof, shall not intentionally or knowingly hold a financial interest in an applicant or a slot machine licensee, manufacturer licensee, supplier licensee or licensed racing entity, or in a holding company, affiliate, intermediary or subsidiary thereof, while the individual is an executive-level public employee, public official or party officer and for one year following termination of the individual's status as an executive-level public employee, public official or party officer.

(a.1) Employment.—Except as may be provided by rule or order of the Pennsylvania Supreme Court, no executive-level public employee, public official or party officer, or an immediate family member thereof, shall be employed by an applicant or a slot machine licensee, manufacturer licensee, supplier licensee or licensed racing entity, or by any holding company, affiliate, intermediary or subsidiary thereof, while the individual is an executive-level public employee, public official or party officer and for one year following termination of the individual's status as an executive-level public employee, public official or party officer.

(a.2) Complimentary services.—

(1) No executive-level public employee, public official or party officer, or an immediate family member thereof, shall solicit or accept any complimentary service from an applicant or a slot machine licensee, manufacturer licensee, supplier licensee or licensed racing entity, or from any affiliate, intermediary, subsidiary or holding company thereof, which the executive-level public employee, public official or party officer, or an immediate family member thereof, knows or has reason to know is other than a service or discount which is offered to members of the general public in like circumstances.

(2) No applicant, slot machine licensee, manufacturer licensee, supplier licensee or licensed racing entity, or any affiliate, intermediary, subsidiary or holding company thereof, shall offer or deliver to an executive-level public employee, public official or party officer, or an immediate family member thereof, any complimentary service from the applicant or slot machine licensee, manufacturer licensee, supplier licensee or licensed racing entity, or an affiliate, intermediary, subsidiary or holding company thereof, that the applicant or slot machine licensee, manufacturer licensee, supplier licensee or licensed racing entity, or any affiliate, intermediary, subsidiary or holding company thereof, 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.

(a.3) Grading.—*An individual who violates this section commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 or to imprisonment for not more than one year, or both.*

(a.4) Divestiture.—*An executive-level public employee, public official or party officer, or an immediate family member thereof, who holds a financial interest prohibited by this section shall divest the financial interest within three months of the effective date of the restrictions set forth in subsection (a), as applicable. Thereafter, any executive-level public employee, public official, party officer or immediate family member shall have 30 days from the date the individual knew or had reason to know of the violation or 30 days from the publication in the Pennsylvania Bulletin under § 1202(b)(27) (relating to general and specific powers) of the application or licensure of the executive-level public employee, public official, party officer or immediate family member, whichever occurs earlier, to divest the financial interest. The Ethics Commission may, for good cause, extend the time period under this subsection.*

(a.5) Ethics Commission.—*The Ethics Commission shall publish a list of all State, county, municipal and other government positions that meet the definitions of “public official” or “executive-level public employee” under subsection (b). The Office of Administration shall assist the Ethics Commission in the development of the list, which shall be published in the Pennsylvania Bulletin biennially and on the board’s website. Upon request, each public official shall have a duty to provide the Ethics Commission with adequate information to accurately develop and maintain the list. The Ethics Commission may impose a civil penalty under 65 Pa.C.S. § 1109(f) (relating to penalties) upon any public official or executive-level public employee who fails to cooperate with the Ethics Commission under this subsection.*

(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] public 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.] The term shall include the following:

(1) Deputy Secretaries of the Commonwealth and the Governor’s Office executive staff.

(2) An employee of the Executive Branch with discretionary power which may affect or influence the outcome of a State agency’s action or decision and who is involved in the development of regulations or policies relating to a licensed entity or who is involved in other matters

under this part. The term shall include an employee with law enforcement authority.

(3) An employee of a county or municipality with discretionary powers which may affect or influence the outcome of the county's or municipality's action or decision and who is involved in the development of law, regulation or policy relating to a licensed entity or who is involved in other matters under this part. The term shall include an employee with law enforcement authority.

(4) An employee of a department, agency, board, commission, authority or other governmental body not included in paragraph (1), (2) or (3) with discretionary power which may affect or influence the outcome of the governmental body's action or decision and who is involved in the development of regulation or policy relating to a licensed entity or who is involved in other matters under this part. The term shall include an employee with law enforcement authority.

"Financial interest." Owning or holding, or being deemed to hold, debt or equity 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.] or other ownership interest or profits interest. 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).] debt or equity security, or other ownership interest or profits interest, which is held or deemed to be held in any of the following:

(1) A blind trust over which the executive-level public 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). The provisions of this paragraph shall apply only to blind trusts established prior to the effective date of this paragraph.

(2) Securities that are held in a pension plan, profit-sharing plan, individual retirement account, tax-sheltered annuity, a plan established pursuant to section 457 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) or any successor provision, deferred compensation plan whether qualified or not qualified under the Internal Revenue Code of 1986 or any successor provision or other retirement plan that:

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

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

(3) A tuition account plan organized and operated pursuant to section 529 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 529) that is not self-directed by the individual.

(4) A mutual fund where the interest owned by the mutual fund in a licensed entity does not constitute a controlling interest as defined in this part.

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

“Law enforcement authority.” *The power to conduct investigations of or to make arrests for criminal offenses.*

“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 *in which a licensed facility is located*; or a city chairman, vice chairman, counsel, secretary or treasurer of a city committee *of a city in which a licensed facility is located*.

“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.]

“Public official.” *The term shall include the following:*

(1) The Governor, Lieutenant Governor, a member of the Governor’s cabinet, Treasurer, Auditor General and Attorney General of the Commonwealth.

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

(3) An individual elected or appointed to any office of a county or municipality that directly receives a distribution of revenue under this part.

(4) An individual elected or appointed to a department, agency, board, commission, authority or other governmental body not included in paragraph (1), (2) or (3) that directly receives a distribution of revenue under this part.

(5) An individual elected or appointed to a department, agency, board, commission, authority, county, municipality or other governmental body not included in paragraph (1), (2) or (3) with discretionary power which may influence or affect the outcome of an action or decision and who is involved in the development of regulation or policy relating to a licensed entity or who is involved in other matters under this part.

The term does not include a member of a school board or an individual who held an uncompensated office with a governmental body prior to January 1, 2006, and who no longer holds the office as of January 1, 2006. The term includes a member of an advisory board or commission which makes recommendations relating to a licensed facility.

Section 11. Section 1513(a) of Title 4 is amended and the section is amended by adding subsections to read:

§ 1513. Political influence.

[(a) Contribution restriction.—An applicant for a slot machine license, manufacturer license or supplier license, licensed racing entity licensee, 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.]

(a) Contribution restriction.—The following persons 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 party committee or other political committee in this Commonwealth or to any group, committee or association organized in support of a candidate, political party committee or other political committee in this Commonwealth:

(1) An applicant for a slot machine license, manufacturer license, supplier license, principal license, key employee license or horse or harness racing license.

(2) A slot machine licensee, licensed manufacturer, licensed supplier or licensed racing entity.

(3) A licensed principal or licensed key employee of a slot machine licensee, licensed manufacturer, licensed supplier or licensed racing entity.

(4) An affiliate, intermediary, subsidiary or holding company of a slot machine licensee, licensed manufacturer, licensed supplier or licensed racing entity.

(5) A licensed principal or licensed key employee of an affiliate, intermediary, subsidiary or holding company of a slot machine licensee, licensed manufacturer, licensed supplier or licensed racing entity.

(6) A person who holds a similar gaming license in another jurisdiction and the affiliates, intermediaries, subsidiaries, holding companies, principals or key employees thereof.

(a.1) Contributions to certain associations and organizations barred.—The individuals prohibited from making political contributions under subsection (a) shall not make a political contribution of money or an in-kind contribution to any association or organization, including a nonprofit organization, that has been solicited by, or knowing that the contribution or a portion thereof will be contributed to, the elected official, executive-level public employee or candidate for nomination or election to a public office in this Commonwealth.

(a.2) Internet website.—

(1) The board shall establish an Internet website that includes a list of all applicants for and holders of a slot machine license, manufacturer license, supplier license or racing entity license, and the affiliates, intermediaries, subsidiaries, holding companies, principals and key employees thereof, all persons holding a similar gaming license in another jurisdiction, and the affiliates, intermediaries, subsidiaries, holding companies, principals and key employees thereof, and any other entity in which the applicant or licensee has any debt or equity security or other ownership or profits interest. An applicant or licensee shall notify the board within seven days of the discovery of any change in or addition to the information. The list shall be published semiannually in the Pennsylvania Bulletin.

(2) An individual who acts in good faith and in reliance on the information on the Internet website shall not be subject to any penalties or liability imposed for a violation of this section.

(3) The board shall request the information required under paragraph (1) from persons licensed in another jurisdiction who do not hold a license in this Commonwealth and from regulatory agencies in the other jurisdiction. If a licensee in another jurisdiction refuses to provide the information required under paragraph (1), the person and its officers, directors or persons with a controlling interest shall be ineligible to receive any license under this part.

** * **

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

“Contribution.” Any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing made to a candidate or political committee for the purpose of influencing any election in this Commonwealth or for paying debts incurred by or for a candidate or committee before or after any election. The term shall include the purchase of tickets for events including dinners, luncheons, rallies and other fundraising events; the granting of discounts or rebates not available to the general public; or the granting of

discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; and any payments provided for the benefit of any candidate, including payments for the services of a person serving as an agent of a candidate or committee by a person other than the candidate or committee or person whose expenditures the candidate or committee must report. The term also includes any receipt or use of anything of value received by a political committee from another political committee and also includes any return on investments by a political committee.

“Political committee.” Any committee, club, association or other group of persons which receives contributions or makes expenditures.

Section 12. Section 1517(a), (c) and (d) of Title 4 are amended and the section is amended by adding subsections to read:

§ 1517. [Enforcement.] *Investigations and 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.]

(a) Establishment.—There is hereby established within the board a Bureau of Investigations and Enforcement which shall be independent of the board in matters relating to the enforcement of this part. The bureau shall have the powers and duties set forth in subsection (a.1).

(a.1) Powers and duties of bureau.—The Bureau of Investigations and Enforcement shall have the following powers and duties:

(1) Enforce the provisions of this part.

(2) Investigate and review all applicants and applications for a license, permit or registration.

(3) Investigate licensees, permittees, registrants and other persons regulated by the board for noncriminal violations of this part, including potential violations referred to the bureau by the board or other person.

(4) Monitor gaming operations to ensure all of the following:

(i) Compliance with this part, the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, and the other laws of this Commonwealth.

(ii) The implementation of adequate security measures by a licensed entity.

(5) Inspect and examine licensed entities as provided in subsection (e). Inspections may include the review and reproduction of any document or record.

(6) Conduct audits of a licensed entity as necessary to ensure compliance with this part. An audit may include the review of accounting, administrative and financial records, management control systems, procedures and other records utilized by a licensed entity.

(7) Refer possible criminal violations to the Pennsylvania State Police. The bureau shall not have the power of arrest.

(8) Cooperate in the investigation and prosecution of criminal violations related to this part.

(9) Be a criminal justice agency under 18 Pa.C.S. Ch. 91 (relating to criminal history record information).

(a.2) Office of Enforcement Counsel.—

(1) There is established within the bureau an Office of Enforcement Counsel which shall act as the prosecutor in all noncriminal enforcement actions initiated by the bureau under this part and shall have the following powers and duties:

(i) Advise the bureau on all matters, including the granting of licenses, permits or registrations, the conduct of background investigations, audits and inspections and the investigation of potential violations of this part.

(ii) File recommendations and objections relating to the issuance of licenses, permits and registrations on behalf of the bureau.

(iii) *Initiate, in its sole discretion, proceedings for noncriminal violations of this part by filing a complaint or other pleading with the board.*

(2) *The director of the Office of Enforcement Counsel shall report to the executive director of the board on administrative matters. The director shall be selected by the board and shall be an attorney admitted to practice before the Pennsylvania Supreme Court.*

(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] conduct background investigations on persons** as directed by the board in accordance with the provisions of section 1202 *(relating to general and specific powers)*. *The Pennsylvania State Police may contract with other law enforcement annuitants to assist in the conduct of investigations under this paragraph.*

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

(3) Initiate proceedings for **[any] criminal** 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 *criminal* enforcement of this part **[or regulations promulgated under this part]**.

(5) Inspect, *when appropriate*, 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 *other* applicant *seeking approval from the board*.

(11) Conduct administrative inspections on the premises of licensed racetrack or nonprimary location or licensed facility *at such times, under such circumstances and to such extent as the bureau determines* 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."

(c.1) Powers and duties of Attorney General.—Within the Office of Attorney General, the Attorney General shall establish a gaming unit. The unit shall investigate and institute criminal proceedings as authorized by subsection (d).

(d) Criminal action.—

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

(2) In addition to the authority conferred upon the Attorney General [by] under 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, ***following consultation with the appropriate district attorney***, to institute criminal proceedings for [any] a violation of this part. **[or any series of such violations involving any county of this Commonwealth and another state. No]** A person charged with a violation of this part by the Attorney General shall ***not*** 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.

(d.1) Regulatory action.—Nothing contained in subsection (d) shall be construed to limit the existing regulatory or investigative authority of an agency or the Commonwealth whose functions relate to persons or matters within the scope of this part.

* * *

Section 13. Title 4 is amended by adding sections to read:

§ 1517.1. (Reserved).

§ 1517.2. ***Conduct of public officials and employees.***

(a) Ex parte discussion prohibited.—An attorney representing the bureau or the Office of Enforcement Counsel, or an employee of the bureau or office involved in the hearing process, shall not discuss the case ex parte with a hearing officer, chief counsel or member.

(b) Other prohibitions.—A hearing officer, the chief counsel or a member shall not discuss or exercise any supervisory responsibility over

any employee with respect to an enforcement hearing with which the employee is involved.

(c) Disqualification.—If it becomes necessary for the chief counsel or member to become involved on behalf of the board in any enforcement proceeding, the chief counsel or member shall be prohibited from participating in the adjudication of that matter and shall designate appropriate individuals to exercise adjudicatory functions.

Section 14. Section 1518 of Title 4 is amended to read:

§ 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] shall be** 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 **[party] part**.

(3) It **[is] shall be** 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] shall be** 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] shall be** 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), it **[is] shall be** unlawful for an individual *while* 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[.] **with the intent to cheat or defraud a licensed gaming entity or the Commonwealth or damage the slot machine.**

(ii) In the playing of a slot machine, it **[is] shall be** 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), it **[is] shall be** 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 similar objects accepted by a slot machine or counterfeit or altered slot machine-issued tickets or vouchers **at a licensed facility.**

(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, 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), it **[is] shall be** 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 **which is located on the premises of the licensed facility.**

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

(9) It **[is] shall be** 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 **the provisions of this part[.] with the intent to use the device, equipment or material as though it had been manufactured, distributed, sold, tampered with or serviced pursuant to this part.**

(9.1) It shall be unlawful for a person to sell, offer for sale, represent or pass off as lawful 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] shall be** 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] issued under the provisions of** this part.

(11) It **[is] shall be** 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 **slot**

machine license was issued unless the license *issued to it by either the State Horse Racing Commission or the State Harness Racing Commission* will be subsequently reissued or reinstated within 30 days after the loss or suspension.

(12) It [is] *shall be* unlawful for a licensed entity to employ or continue to employ *an individual* in a position the duties of which require a license or permit under the provisions of this part *if the individual*:

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

(ii) [An individual who is] *Is* prohibited from accepting employment from a licensee.

(13) It [is] *shall be* unlawful for any person under 18 years of age to be permitted in the area *of a licensed facility* 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.] *that commits a first offense in violation of 18 Pa.C.S. § 4902, 4903 or 4904 in connection with providing information or making any statement, whether written or oral, to the board, the bureau, the department, the Pennsylvania State Police, the Office of Attorney General or a district attorney as required by this part commits an offense to be graded in accordance with the applicable section violated.* A person that is convicted of a second or subsequent violation of [subsection (a)(1)] *18 Pa.C.S. § 4902, 4903 or 4904 in connection with providing information or making any statement, whether written or oral, to the board, the bureau, the department, the Pennsylvania State Police, the Office of Attorney General or a district attorney as required by this part* 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] of the board. *The applicant, licensee or permittee* shall have the right to [an administrative hearing before the board] *appeal the decision* 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.

Section 15. Title 4 is amended by adding sections to read:

§ 1519. [(Reserved).] *Detention.*

A peace officer, licensee or licensee's security employee or an agent under contract with the licensee who has probable cause to believe that criminal violation of this part has occurred or is occurring on or about a licensed facility and who has probable cause to believe that a specific individual has committed or is committing the criminal violation may detain the suspect in a reasonable manner for a reasonable time on the premises of the licensed facility for all or any of the following purposes: to require the suspect to identify himself, to verify such identification or to inform a peace officer. Such detention shall not impose civil or criminal liability upon the peace officer, licensee, licensee's employee or agent so detaining.

§ 1522. *Interception of oral communications.*

The interception and recording of oral communications made in a counting room of a licensed facility by a licensee shall not be subject to the provisions of 18 Pa.C.S. Ch. 57 (relating to wiretapping and electronic surveillance). Notice that oral communications are being intercepted and recorded shall be posted conspicuously in the counting room.

Section 16. Sections 1801 and 1802 of Title 4 are amended to read:

§ 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] *and* convictions, *no matter where occurring, including Federal criminal history record information*, on applicants for licensure *and permit applicants* 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,

financial backers, principals, 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] racetracks. For the purposes of this [chapter] *part*, the board and commissions may receive *and retain* information otherwise protected by 18 Pa.C.S. Ch. 91 (relating to criminal history record information).

§ 1802. Submission of fingerprints *and photographs*.

[Applicants] Appointees, employees and prospective employees engaged in the service of the commissions or the board and applicants under this part shall submit to fingerprinting *and photographing* by the Pennsylvania State Police[.] *or by a local law enforcement agency capable of submitting fingerprints and photographs electronically to the Pennsylvania State Police utilizing the Integrated Automated Fingerprint Identification System and the Commonwealth Photo Imaging Network or in a manner and in such form as may be provided by the Pennsylvania State Police. Fingerprinting pursuant to this part shall require, at a minimum, the submission of a full set of fingerprints. Photographing pursuant to this part shall require submission to photographs of the face and any scars, marks or tattoos for purposes of comparison utilizing an automated biometric imaging system.* The Pennsylvania State Police shall submit [the] fingerprints [if necessary] *when requested by the commissions or the board* 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] *Fingerprints and photographs obtained pursuant to this part may be maintained by the commissions, the board and the Pennsylvania State Police for use pursuant to this part and for general law enforcement purposes. In addition to any other fee or cost assessed by the commissions or the board, an applicant shall pay for the cost of fingerprinting and photographing.*

Section 17. Title 4 is amended by adding a section to read:

§ 1901.1. *Repayments to State Gaming Fund.*

The board shall defer assessing slot machine licensees for payments to the State Gaming Fund for any loans made to the State Gaming Fund until such time as all slot machine licenses have been issued and all licensed gaming entities have commenced the operation of slot machines. The board shall adopt a repayment schedule that assesses to each slot machine licensee costs for the repayment of any such loans in an amount that is proportional to each slot machine licensee's gross terminal revenue.

Section 18. Section 911(h)(1) of Title 18 is amended to read:

§ 911. Corrupt organizations.

* * *

(h) Definitions.—As used in this section:

(1) “Racketeering activity” means *all of the following*:(i) **[any] An** act which is indictable under any of the following provisions of this title:

Chapter 25 (relating to criminal homicide)

Section 2706 (relating to terroristic threats)

Chapter 29 (relating to kidnapping)

Chapter 33 (relating to arson, etc.)

Chapter 37 (relating to robbery)

Chapter 39 (relating to theft and related offenses)

Section 4108 (relating to commercial bribery and breach of duty to act disinterestedly)

Section 4109 (relating to rigging publicly exhibited contest)

Section 4117 (relating to insurance fraud)

Chapter 47 (relating to bribery and corrupt influence)

Chapter 49 (relating to falsification and intimidation)

Section 5111 (relating to dealing in proceeds of unlawful activities)

Section 5512 through 5514 (relating to gambling)

Chapter 59 (relating to public indecency).

(ii) **[any] An** offense indictable under section 13 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act (relating to the sale and dispensing of narcotic drugs);].(iii) **[any] A** conspiracy to commit any of the offenses set forth in **[subparagraphs] subparagraph (i) [and (ii) of this paragraph; or], (ii) or (v).**(iv) **[the] The** collection of any money or other property in full or partial satisfaction of a debt which arose as the result of the lending of money or other property at a rate of interest exceeding 25% per annum or the equivalent rate for a longer or shorter period, where not otherwise authorized by law.(v) **An offense indictable under 4 Pa.C.S. Pt. II (relating to gaming).****[Any] An** act which otherwise would be considered racketeering activity by reason of the application of this paragraph, shall not be excluded from its application solely because the operative acts took place outside the jurisdiction of this Commonwealth, if such acts would have been in violation of the law of the jurisdiction in which they occurred.

* * *

Section 19. The amendment of 4 Pa.C.S. § 1205(b) shall apply to any slot machine license application filed on or after the effective date of this section.

Section 20. This act shall take effect immediately.

APPROVED—The 1st day of November, A.D. 2006.

EDWARD G. RENDELL