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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 211 Session of  
2009

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INTRODUCED BY FOLMER, BROWNE, ORIE, KASUNIC, ERICKSON, BOSCOLA,  
BAKER, STOUT, MUSTO, EARLL, VOGEL, RAFFERTY, O'PAKE, PICCOLA,  
COSTA, PIPPY, WAUGH, M. WHITE, LEACH, EICHELBERGER AND  
WASHINGTON, FEBRUARY 19, 2009

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REFERRED TO FINANCE, FEBRUARY 19, 2009

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AN ACT

1 Amending the act of December 19, 1988 (P.L.1262, No.156),  
2 entitled, as amended, "An act providing for the licensing of  
3 eligible organizations to conduct games of chance, for the  
4 licensing of persons to distribute games of chance, for the  
5 registration of manufacturers of games of chance, and for  
6 suspensions and revocations of licenses and permits;  
7 requiring records; providing for local referendum by  
8 electorate; and prescribing penalties," further providing for  
9 definitions, for prize limits, for insured games, for limited  
10 sales, for recordkeeping, for eligible organizations' use of  
11 locations for conducting small games of chance, for separate  
12 individual prize limitations and for advertising.

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

15 Section 1. The definition of "daily drawing" in section 3 of  
16 the act of December 19, 1988 (P.L.1262, No.156), known as the  
17 Local Option Small Games of Chance Act, amended December 19,  
18 1990 (P.L.812, No.195), is amended to read:

19 Section 3. Definitions.

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

1 \* \* \*

2 "Daily drawing." A game in which a bona fide member selects  
3 or is assigned a number for a chance at a prize with the winner  
4 determined by [a] random drawing to take place on the eligible  
5 organization's premises [during the same operating day]. The  
6 term includes games commonly known as "member sign-in lotteries"  
7 and "half-and-half lotteries." Nothing in this act shall be  
8 construed to prohibit the carrying over of a jackpot where the  
9 winning number has not been entered in the game on a particular  
10 operating day. Daily drawing winners may be determined with the  
11 aid of a passive selection device or reference to drawings  
12 conducted by the department pursuant to the act of August 26,  
13 1971 (P.L.351, No.91), known as the State Lottery Law. Daily  
14 drawing chances may not be sold for an amount in excess of \$1,  
15 and no more than one chance per individual may be sold [to an  
16 individual during the same operating day.] per drawing. Nothing  
17 in this definition shall restrict an eligible organization from  
18 conducting more than one drawing per day.

19 \* \* \*

20 Section 2. Section 5 of the act, amended December 19, 1990  
21 (P.L.812, No.195) and October 18, 2000 (P.L.602, No.79), is  
22 amended to read:

23 Section 5. Prize limits.

24 (a) Individual prize limit.--[The] Except as provided for in  
25 subsection (i), the maximum cash value which may be awarded for  
26 any single chance shall be [\$500] \$1,000.

27 (b) Weekly limit.--No more than [\$5,000] \$20,000 in cash or  
28 merchandise shall be awarded by any eligible organization in any  
29 seven-day period. Payouts of less than \$26 shall not be counted  
30 toward the weekly limit.

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

3 (d) Exception.--An eligible organization may conduct a  
4 raffle and award a prize or prizes valued in excess of [\$500]  
5 \$1,000 each only under the following conditions:

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

8 (2) Eligible organizations shall be eligible to receive  
9 no more than two special permits in any licensed year except  
10 that volunteer fire, ambulance and rescue organizations shall  
11 be eligible to receive no more than three special permits in  
12 any licensed year.

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

15 (4) The total cash value of all prizes shall be no more  
16 than \$100,000 per calendar year.

17 (e) Limit on daily drawings.--Daily drawings shall be  
18 governed by the prize [limitations] limitation contained in  
19 [subsections (a) and (b)] subsection (a). [An eligible  
20 organization shall not conduct daily drawings during a period  
21 when a weekly drawing is taking place.]

22 (f) Exception.--The prize limitation contained in  
23 [subsections (a) and (b)] subsection (a) may be exceeded by a  
24 daily drawing under the following circumstances: a daily drawing  
25 may award a prize where the cash value is in excess of [\$500]  
26 \$1,000 if such prize is the result of a carryover of a drawing  
27 or drawings which resulted from the winning number in such  
28 drawing or drawings not being among the eligible entrants in  
29 such drawings. Nothing contained herein shall authorize the  
30 prize [limitations] limitation as contained in [subsections (a)

1 and (b)] subsection (a) to be exceeded as a result of a failure  
2 to conduct a drawing on an operating day during which chances  
3 were sold for a daily drawing or for a daily drawing for which  
4 chances were sold in excess of \$1 or for which more than one  
5 chance was sold to an eligible participant.

6 (g) Daily drawing and weekly drawing exception.--When a  
7 daily drawing or weekly drawing is set up or conducted in such a  
8 manner as to pay out or award 100% of the gross revenues  
9 generated from such drawing, the limitations contained in  
10 subsection (b) shall not apply.

11 (h) Limit on weekly drawings.--Weekly drawings shall be  
12 governed by the prize limitations contained in subsection (b).  
13 The prize limitation contained in subsection (b) may be exceeded  
14 by a weekly drawing under the following circumstances: a weekly  
15 drawing may award a prize where the cash value is in excess of  
16 [\$5,000] \$20,000 if such prize is the result of a carryover of a  
17 drawing or drawings which resulted from the winning number or  
18 numbers in such drawing or drawings not being among the eligible  
19 entrants in such drawings. Nothing contained in this act shall  
20 authorize the prize limitations as contained in subsection (b)  
21 to be exceeded as a result of a failure to conduct a drawing for  
22 a week during which chances were sold for a weekly drawing or  
23 for a weekly drawing for which chances were sold in excess of  
24 \$1. [An eligible organization shall not conduct weekly drawings  
25 during a period when a daily drawing is taking place.]

26 (i) Progressive games.--Progressive games shall be permitted  
27 with a maximum cash value of \$5,000. Contributions to the pot  
28 shall be counted against the limit for the week in which the  
29 contribution is made except that when the limit is reached the  
30 amount awarded shall be counted toward the limit only to the

1 extent it was not previously counted toward a prior week's  
2 limit. For the purpose of this section, progressive games are  
3 those in which a winning ticket awards the ticket holder an  
4 additional chance at another game or games.

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

6 Section 5.1. Insured games.

7 Notwithstanding any provision of this act to the contrary, an  
8 eligible organization may conduct small games of chance using  
9 insured games. Insured games sold by a licensed distributor  
10 shall be backed by a valid insurance contract issued by an  
11 insurance company licensed to do business in this Commonwealth.  
12 Proof of the insurance contract must be provided to the  
13 department prior to the game being sold. The license of a  
14 distributor and an insurance company issuing a contract for an  
15 insured game may be suspended or revoked for failure to pay an  
16 award. For the purposes of this section, an insured game is a  
17 game in which the distributor or other licensed third party  
18 guarantees making the payment on a win of a jackpot.

19 Section 4. Sections 6 and 9(b) of the act, amended December  
20 19, 1990 (P.L.812, No.195), are amended to read:

21 Section 6. Sales limited.

22 No person shall sell, offer for sale or furnish games of  
23 chance for use within this Commonwealth except to an eligible  
24 organization or distributor licensed under this act. No game of  
25 chance, other than a raffle, sold, offered for sale or furnished  
26 for use within this Commonwealth shall contain, permit, depict  
27 or designate a prize having a cash value in excess of [\$500]  
28 \$1,000.

29 Section 9. Regulations of department.

30 \* \* \*

1 (b) Limitation on recordkeeping requirements.--This section  
2 shall not be construed to authorize the department to promulgate  
3 regulations providing for recordkeeping requirements for  
4 eligible organizations which require unreasonable or unnecessary  
5 information or a repetitious listing of information. The  
6 department shall strive to keep such recordkeeping requirements  
7 from being an undue hardship or burden on eligible  
8 organizations. Under no circumstances shall the department  
9 require the retention of records for a period in excess of two  
10 years. Each eligible organization shall report to the department  
11 prizes awarded as required by section 335 of the act of March 4,  
12 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

13 Section 5. Section 10 of the act, amended December 19, 1990  
14 (P.L.812, No.195) and October 18, 2000 (P.L.602, No.79), is  
15 amended to read:

16 Section 10. Licensing of eligible organizations to conduct  
17 games of chance.

18 (a) License required.--No eligible organization shall  
19 conduct or operate any games of chance unless such eligible  
20 organization has obtained and maintains a valid license issued  
21 pursuant to this section. Auxiliary groups within eligible  
22 organizations shall be eligible to conduct small games of chance  
23 using the license issued to the eligible organization provided  
24 that the auxiliary group or groups are listed on the application  
25 and license of the eligible organization. No additional  
26 licensing fee shall be charged for an auxiliary group's  
27 eligibility under this act. Auxiliary groups shall not include  
28 branches, lodges or chapters of a Statewide organization.

29 (b) Issuance and fees.--The licensing authority shall  
30 license, upon application, within 30 days any eligible

1 organization meeting the requirements for licensure contained in  
2 this act to conduct and operate games of chance at such  
3 locations within the county or in such manner as stated on the  
4 application as limited by subsection (b.1). The license fee to  
5 be charged to each eligible organization shall be [\$100] \$300,  
6 except for limited occasion licenses which shall be [\$10] \$30.  
7 Licenses shall be renewable [annually] on a biennial basis upon  
8 the anniversary of the date of issue.

9 (b.1) Location of small games of chance.--Where there exists  
10 a location or premises which is the normal business or operating  
11 site of the eligible organization and is owned or leased by that  
12 eligible organization to conduct its normal business, that site  
13 shall be the licensed premises for small games of chance  
14 conducted by the eligible organization. If that location  
15 consists of more than one building and the eligible organization  
16 wishes to conduct its games in a different building at that  
17 location from the one that is listed on its application and  
18 license, the eligible organization must notify, in writing, the  
19 district attorney and the licensing authority of the change in  
20 building site and the dates and times that will be affected.  
21 When an eligible organization does not own or lease a specific  
22 location to conduct its normal business, that eligible  
23 organization may use another eligible organization's premises to  
24 conduct its games or may make such other arrangements that are  
25 consistent with this act, including, but not limited to, leasing  
26 a premise under a written agreement for a rental which is not  
27 determined by either the amount of receipts realized from the  
28 playing of games of chance nor the number of people attending  
29 except that an eligible organization may lease a facility for a  
30 banquet where a per head charge is applied in connection with

1 the serving of a meal. When such eligible organization changes  
2 the site of its games from that which is listed on its  
3 application and license, the eligible organization must notify,  
4 in writing, the district attorney and licensing authority of the  
5 change in their games' site and dates and times that will be  
6 affected. More than one organization may use the same location,  
7 provided that each organization has its own license and that the  
8 prize limitations of this act shall apply separately to each  
9 organization.

10 (b.2) Off-premises games of chance.--Notwithstanding any  
11 other provisions of this section, an eligible organization may  
12 conduct small games of chance at a location off its premises  
13 when such games are part of an annual carnival, fair, picnic or  
14 banquet held or participated in by that eligible organization on  
15 a historical basis. The eligible organization must notify, in  
16 writing, the district attorney and licensing authority of the  
17 location, date and times of such events where it will be  
18 conducting small games of chance.

19 (b.3) Limited occasion licenses.--Eligible organizations  
20 which do not own their own premises or which do not lease a  
21 specific location to conduct their normal business may apply for  
22 a limited occasion license to conduct small games of chance on  
23 not more than three occasions covering a total of seven days  
24 during a licensed year. A limited occasion license entitles  
25 eligible organizations holding such a license to conduct no more  
26 than two raffles during a licensed year where prizes may not  
27 exceed the established limits for regular monthly raffles.  
28 Holders of limited occasion licenses may not apply or be granted  
29 any other license or special permit under this act. No holder of  
30 a regular license or special permit under this act shall apply

1 or be granted a limited occasion license.

2 (b.4) Gambling facility prohibited.--It shall be unlawful  
3 for a person, corporation, association, partnership or other  
4 business entity to offer for rent or offer for use a building or  
5 facility to be used exclusively for the conducting of small  
6 games of chance. It shall also be unlawful for any eligible  
7 organization to lease under any terms a facility or building  
8 which is used exclusively for the conducting of small games of  
9 chance.

10 (c) Display.--Licenses issued pursuant to this section shall  
11 be publicly displayed at the site of the small games of chance.

12 (d) Operation.--Each licensed eligible organization shall  
13 comply with the following restrictions and rules governing the  
14 operation of games of chance:

15 (1) No person under 18 years of age shall be permitted  
16 to operate or play games of chance.

17 (2) No eligible organization shall permit any person who  
18 has been convicted of a felony in a Federal or State court  
19 within the past five years or has been convicted in a Federal  
20 or State court within the past ten years of a violation of  
21 the act of July 10, 1981 (P.L.214, No.67), known as the Bingo  
22 Law, or of this act to manage, set up, supervise or  
23 participate in the operation of games of chance.

24 (3) No eligible organization shall pay any compensation  
25 to any person for conducting any games of chance. Games of  
26 chance may only be conducted by managers, officers,  
27 directors, bar personnel and bona fide members of the  
28 eligible organization.

29 (4) Games shall be conducted only on the licensed  
30 premises or as otherwise provided by this act.

1           (5) The eligible organization shall not lease such  
2 premises under either an oral or a written agreement for a  
3 rental which is determined by either the amount of receipts  
4 realized from the playing of games of chance or the number of  
5 people attending, except that an eligible organization may  
6 lease a facility for a banquet where a per head charge is  
7 applied in connection with the serving of a meal. An eligible  
8 organization shall not lease such premises from any person  
9 who has been convicted of a violation of this act within the  
10 past ten years.

11           (6) Games, other than raffles, daily drawings and weekly  
12 drawings, shall be purchased only from manufacturers and  
13 distributors approved by the department.

14           (7) [No] Except as provided in paragraph (7.1), no  
15 licensed eligible organization shall permit its premises to  
16 be used for small games of chance by another licensed  
17 eligible organization at the same time that it is conducting  
18 small games of chance on the premises. When a licensed  
19 eligible organization is permitting another licensed eligible  
20 organization to use its premises for purposes of small games  
21 of chance, it must cease the operation of its own small games  
22 of chance during the period that the other licensed eligible  
23 organization is conducting its games on the premises.

24           (7.1) A licensed eligible organization may sell on its  
25 licensed premises the raffle tickets of another licensed  
26 eligible organization that has been issued a limited occasion  
27 license under subsection (b.3).

28           (8) Raffle tickets may be sold off the licensed premise  
29 in any municipality in this Commonwealth which has adopted  
30 the provisions of this act by an affirmative vote in a

1 municipal referendum. A licensed eligible organization which  
2 plans to sell raffle tickets in a municipality located in a  
3 county other than the county in which the eligible  
4 organization is licensed must notify that county's district  
5 attorney and licensing authority as to the location and the  
6 dates that the eligible organization plans to sell raffle  
7 tickets.

8 (e) Application for license.--Each eligible organization  
9 shall apply to the licensing authority for a license on a form  
10 to be prescribed by the Secretary of Revenue. The form shall  
11 contain an affidavit to be affirmed by the executive officer or  
12 secretary of the eligible organization stating that:

13 (1) No person under 18 years of age will be permitted by  
14 the eligible organization to operate or play games of chance.

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

18 (3) The eligible organization is not leasing such  
19 premises from the owner thereof under an oral agreement, nor  
20 is it leasing such premises from the owner thereof under a  
21 written agreement at a rental which is determined by the  
22 amount of receipts realized from the playing of games of  
23 chance or by the number of people attending, except that an  
24 eligible organization may lease a facility for a banquet  
25 where a per head charge is applied in connection with the  
26 serving of a meal.

27 (e.1) Supplemental materials to accompany application.--The  
28 following materials shall be submitted with the application  
29 under subsection (e):

30 (1) An annual financial report limited to the operation

1 of games of chance detailing gross profit, allowable  
2 expenses, rent, staff per diem, cost of supplies, net profit  
3 and contributions to charitable causes shall be filed with  
4 the licensing authority. This report shall be filed with the  
5 application for license and shall be filed by the midterm  
6 anniversary date of the license in nonapplication years. This  
7 report shall be prepared on a one-page form to be designed by  
8 the department. The report shall contain information for the  
9 12-month period immediately preceding a date 60 days prior to  
10 the filing of the report. Failure to file the report by the  
11 midterm anniversary date of the license shall result in the  
12 automatic suspension of the license until the county  
13 treasurer certifies the report has been filed in compliance  
14 with this act.

15 (2) A licensed eligible organization that conducts games  
16 of chance 30 or more times in one calendar year must provide  
17 evidence to the county treasurer that a bona fide member or  
18 designee of the organization has completed four hours of  
19 education in the corresponding license period. The education  
20 program shall include seminars on law applicable to games of  
21 chance and any other related topics the department may  
22 require. An education program shall be provided by any  
23 nonprofit association approved by the department. This  
24 paragraph shall not apply to organizations seeking or holding  
25 limited occasion licenses.

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

29 (g) List of municipalities.--The licensing authority shall  
30 include with any license or renewal issued to an eligible

1 organization, an up-to-date listing of those municipalities  
2 within the licensing county which have approved the referendum  
3 question on small games of chance.

4 (h) Background checks.--Each application shall include  
5 criminal history records obtained from the Pennsylvania State  
6 Police for the executive officer or secretary of the eligible  
7 organization making the application and all other responsible  
8 persons listed on the application.

9 Section 6. Section 15 of the act, amended December 19, 1990  
10 (P.L.812, No.195), is amended to read:

11 Section 15. Advertising.

12 [It shall be unlawful for any eligible organization or person  
13 to] Any eligible organization or person may advertise the prizes  
14 or their dollar value to be awarded in games of chance, provided  
15 that [prizes may be identified on raffle tickets.

16 Notwithstanding the prohibition of advertising contained within  
17 this section, an eligible organization may advertise prizes and  
18 values thereof in periodic publications which are limited in  
19 their circulation to members of the eligible organization.] such  
20 advertisements shall contain the date, time, location, whether  
21 cash or merchandise prizes will be awarded and the name of the  
22 eligible organization licensed to conduct games of chance and  
23 the name of the person who conducts the games of chance.

24 Section 7. The amendment or addition of section 10(b), (e.1)  
25 and (h) of the act shall apply to applications filed more than  
26 two years after the effective date of this section.

27 Section 8. This act shall take effect as follows:

28 (1) The following provisions shall take effect  
29 immediately:

30 (i) The amendment or addition of section 10(b),

1           (e.1) and (h) of the act.  
2           (ii) Section 7 of this act.  
3           (iii) This section.  
4           (2) The remainder of this act shall take effect in 60  
5           days.