



## BILL ANALYSIS

|                              |                  |                              |          |
|------------------------------|------------------|------------------------------|----------|
| <b><u>COMMITTEE:</u></b>     | Gaming Oversight | <b><u>DATE:</u></b>          | 11/27/13 |
| <b><u>PRIME SPONSOR:</u></b> | Payne            | <b><u>BILL NO.:</u></b>      | HB 1098  |
| <b><u>PREPARED BY:</u></b>   | Jennifer Weeter  | <b><u>PRINTER'S NO.:</u></b> | 2639     |
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### A. SYNOPSIS:

Amends the Small Games of Chance Act (Act 156 of 1988) to allow 50/50 drawings at minor league home games; clarifies the distribution of proceeds to charity; and provides for tavern gaming.

### B. BILL SUMMARY:

**The Senate amended this bill in the Senate Appropriations Committee. The bill was also amended in the House Rules Committee. This summary reflects all of those changes.**

House Bill 1098 amends the legislative intent of the Act by declaring that the raising of public funds from games of chance in taverns is in the public interest.

#### MAJOR LEAGUE SPORTS DRAWING:

HB 1098 amends the Small Games of Chance Act by amending the definitions of "Major League Sports Drawing" and "Major League Sports Team".

A "Major League Sports Drawing" is defined as a 50/50 drawing conducted by a nonprofit affiliate of a major league sports team or racing facility. A "Major League Sports Team" includes:

- (1) A Major League Baseball, National Football League, National Hockey League, National Basketball Association or Major League Soccer team;
- (2) An affiliate to any of those listed in (1);
- (3) Any other professional sports team that has a sports facility or an agreement with a sports facility to conduct home games at the facility.
- (4) A stadium, bleacher or grandstand of a closed course motor facility in which spectators are observing NASCAR, Indy stock or drag racing.

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A major league sports drawing may be held by the affiliated nonprofit at a charitable event at the facility of the home team. These drawings can only be held in the spectator areas of the facility, not in ancillary areas like parking lots, restaurants and bars located outside of the spectator area.

Nonprize money from a major league sports drawing may be utilized by the affiliated nonprofit association to:

- (1) Employ or provide payment to employees over the age of 18 that are selling the tickets.
- (2) Pay administrative expenses directly related to the drawing. This expense cannot exceed 2% of the amount collected from ticket sales.

The Department of Revenue may require, through regulation, additional record keeping for major league sports drawings.

### CLUB LICENSES:

#### Reporting:

- Clarifies annual reports (changed from semi-annual) are to be completed by clubs with proceeds in excess of \$20,000.

#### Distribution of Proceeds:

- Changes distribution of proceeds for clubs to 60% for public interest purposes and 40% for general operating expense (current law split is 70/30);
- Removes the terms "to organizations" when explaining where a club is to use their 60% for public interest purposes;
- Removes the list of general operating expenses; the 40% of proceeds can be used by the club for anything except the payment of fines;
- Permits an organization which has proceeds of less than \$40,000 from games of chance in the previous calendar year to retain the first \$20,000 in proceeds in the next calendar year. Once they obtain the \$20,000, the 60/40 split would begin.
- Provides that clubs cannot pay for fines out of proceeds;
- Clarifies that small games proceeds from clubs need to be expended within one year of the end of the calendar year in which proceeds were received; and
- Removes language that required the club to describe, in detail, any project for which they were retaining proceeds.

#### Background Checks/Audits:

- Removes language in which a club licensee was to obtain a background check to obtain a license;

#### Repeal:

- Removes language that required a club licensee to maintain records relating to the printing/purchasing of raffle tickets.

### TAVERN GAMING:

#### Definitions:

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- Defines a "Restaurant licensee" as a for-profit hotel, restaurant, privately owned public golf course, brew pub or micro brewery licensed under the Liquor Code. The term does not include a grocery store or gas station.
- Defines a "Tavern game" as the conduct of pull-tab games, daily drawings or tavern raffles by a for-profit restaurant licensee;
- Defines a "Tavern raffle" as a raffle held for charitable or public purposes.

Licenses:

- Requires a Restaurant licensee, who wants to sell small games of chance, to apply to the PA Liquor Control Board (PLCB);
- Provides that the application shall include the following information regarding the applicant and all owners of the licensee:
  - Name, address and photo;
  - Current tax lien certificate issued by DOR and a certificate from Department of Labor and Industry that all workman's compensation has been paid;
  - Details of any gaming, slot machine or any casino license applied for or in which an owner has any interest;
  - Consent to conduct a background check and disclosures of all arrests;
  - Financial interest and transactions as required by the Bureau;
  - Information regarding criminal history, including disclosure of all arrests/citations of the applicant for nontraffic summary offenses. The information should include the circumstances of each arrest; the specific offense charged; and the ultimate disposition (ex. dismissal, plea bargain, conviction, ARD, expungement). Note: no applicant is required to provide information on a summary offense;
  - Disclose any citations under the Liquor Code and any conditional license agreements the applicant has with PLCB;
  - Any other information required by DOR;
- Requires the PLCB to approve or disapprove license within 6 months of receiving the application.

Background Checks:

- Requires an applicant, including each owner and officer, of a proposed license to include information and documentation to establish the applicant and owner's suitability, honesty and integrity. This information should include criminal history information, financial background information, data investigation by the Bureau, regulatory information before the LCE or other Commonwealth agency and other information required by the Bureau;
- Provides that if the Bureau of Investigations and Enforcement (BIE) of the PA Gaming Control Board determines that a criminal history record requires further review, BIE can conduct personal interviews;
- Requires the applicant to cooperate with BIE for the background investigation or the Board can immediately deny the application;
- Requires applicants to reimburse the PLCB and BIE for the actual costs of conducting the investigation. LCE cannot approve an applicant until all costs are paid;
- Requires BIE to make a recommendation to PLCB for approval of the license.

Application:

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- Creates an application fee of \$1,000 to be paid to LCB;
- Creates an investigative fee of \$1,000 to BIE and any other additional costs to pay for the background investigations.

#### Approval of License:

- Permits the PLCB, once requirements have been met, to approve the application for license for one year;
- Requires the license to be renewed annually;
- Creates a \$2,000 license fee and \$1,000 renewal fee;
- Adds that the license is not an entitlement and PLCB has sole discretion to issue, renew, condition or deny a license;
- Provides that licenses are non-transferable;
- Permits PLCB to enter into an agreement with the licensee to place additional restrictions on the tavern gaming license which the PLCB deems necessary.

#### Disapproval/Non-renewal of License:

- Permits PLCB to disapprove the issuance or non-renewal of a tavern gaming license for the following reasons:
  - If the liquor license is in safe keeping;
  - If the location of the license is pending objection;
  - If the liquor license is under suspension.

#### Change in Ownership:

- Requires a licensee to notify PLCB upon any changes in ownership;
- Requires that any new owners must independently qualify for a license, pay the license fee and undergo background investigations;

#### Prize Limits:

- Creates an individual prize limit of \$2,000;
- Creates a weekly prize limit of \$35,000;

#### Bank Account:

- Requires a licensee to maintain a separate bank account to hold the proceeds of tavern games;
- Adds that account records need to show all expenditures and income and be retained for 2 years.

#### Tavern Raffle:

- The following apply:
  - No more than one per month
  - Must be held for a designated charitable purpose
  - Individuals participating in a tavern raffle must be aware of charitable purpose involved;
  - At least 50% of the revenue from the raffle must be transmitted to the charity within 7 days;

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- Proceeds not transmitted are to be distributed by 60% to the Commonwealth and 40% to the licensee.
- Provides that prizes that are unclaimed after 60 days from a tavern raffle are donated to the charity which the tavern designated for the tavern raffle.

Distribution of Proceeds:

- Beginning January 2014, the revenue from tavern games are to be distributed by 60% coming to the Commonwealth, 5% to the host municipality and 35% being retained by the licensee.

Tavern Games Tax:

- Imposes a 60% tax on games sold by a licensed distributor;
- Requires the tax to be collected by the distributor. If the game is not purchased from a distributor, the licensee must submit the tax to the Commonwealth;
- Requires the licensee to submit the 60% tax to the Commonwealth on games not purchased from a licensed distributor;
- Requires a distributor or licensee to file a tavern game tax return each quarter with information on the net revenue of the games and the tax due. The return is due by the 20<sup>th</sup> day following the end of the reporting period. The report should include:
  - For distributors, the total amount of revenue for games sold to licensees in the previous calendar month;
  - For licensees, the total amount of revenue of games not purchased from a licensed distributor
  - The calculation of tax due;
  - For a licensee, the amount from any tavern raffles;
  - Other information required by Revenue;
- Imposes penalties for failing to file the return. Revenue may do the following:
  - Assess the amount of tax due;
  - Impose and assess an administrative penalty equal to 10% of the tax due but unpaid for each quarter. This should be added to the tax that is due.
  - Notify PLCB that a licensee has not filed a return or paid the tax;
  - Revoke a licensed distributors license
- Requires the tax imposed to be distributed into the General Fund.

Host Municipality Tavern Games Tax:

- Imposes a 5% tax on games sold by a licensed distributor;
- Requires the tax to be collected by the distributor. If the game is not purchased from a distributor, the licensee must submit the tax to the Commonwealth;
- Requires the licensee to submit the 5% tax to the Commonwealth on games not purchased from a licensed distributor;
- Requires a distributor or licensee to file a tavern game tax return each quarter with information on the net revenue of the games and the tax due. The return is due by the 20<sup>th</sup> day following the end of the reporting period. The report should include:
  - For distributors, the total amount of revenue for games sold to licensees in the previous calendar month;

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- For licensees, the total amount of revenue of games not purchased from a licensed distributor
- The calculation of tax due;
- For a licensee, the amount from any tavern raffles;
- Other information required by Revenue;
- Imposes penalties for failing to file the return. Revenue may do the following:
  - Assess the amount of tax due;
  - Impose and assess an administrative penalty equal to 10% of the tax due but unpaid for each quarter. This should be added to the tax that is due.
  - Notify PLCB that a licensee has not filed a return or paid the tax;
  - Revoke a licensed distributors license
- Requires the tax imposed to be paid to the Commonwealth into the restricted receipts account.

#### Restricted Receipts Account:

- Creates a restricted receipts account in the General Fund to be known as the Host Municipality Tavern Games Local Share Account;
- Requires Revenue to make distributions from the account to each host municipality. Each host municipality shall receive a distribution equal to the revenue remitted into the account by:
  - Licensees location within the host municipality; and
  - Licensed distributors generated by purchases of small games in the host municipality
- Requires Revenue to make payments to host municipalities within 60 days of the end of the calendar year.

#### Regulation:

- Requires Revenue to enforce the provisions of the Act and promulgate and enforce regulations relating to enforcement, collection of tax and imposition of tax.

#### Invoice:

- Requires an invoice from a distributor to a licensee listing the games sold, net revenue projected from each game and the tax due. Failure to provide a correct invoice results in a 50% penalty of the tax due to the Commonwealth.

#### Reports:

- Requires an annual report to LCB on a form created by Revenue. Report shall include:
  - Prizes over \$600;
  - Revenue received from each game, itemized by week;
  - Amount of prizes paid from all games of chance, itemized by week;
  - Amount of tax remitted to Revenue;
  - Amount given to charities from tavern raffles;
  - Other information required by Revenue.

#### Enforcement:

- Permits PLCB to suspend or revoke a license or impose the following penalties:

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- Civil penalties:
  - Up to \$2,000 for first violation;
  - Up to \$3,000 for a second violation;
  - Up to \$5,000 for third or subsequent violation;
- Provides for criminal penalties in which a violation of this act is a misdemeanor of the third degree. A second or subsequent offense is a misdemeanor of the second degree;
- Provides that an administrative law judge may impose penalties following the issuance of a citation by the LCE;
- Provides the LCB may, at its discretion, suspend, revoke or deny renewal to any licensee if it received any information that the applicant or owners have provided LCE with false or misleading information.

Prohibitions:

- Provides the following shall apply to any license issued for tavern gaming:
  - No license may be issued to a restaurant in a casino;
  - No license may be issued to a place of business on the grounds where a major league sports team conducts games or races;
  - No license may be issued to a nuisance bar;
  - The board is prohibited from issuing a license to an person who has been convicted of a felony offense or misdemeanor gambling offense in any jurisdiction unless the conviction was more than 15 years ago;
  - It is unlawful for anyone under 21 to play a tavern game;
  - It is unlawful for anyone under 18 to operate a tavern game;
- It is unlawful for an employee of a licensee to operate a tavern game if the employee has been convicted of a felony offense or misdemeanor gambling offense in any jurisdiction unless the conviction was more than 15 years ago.

Applicability:

- Provides that tavern gaming licenses are only to be awarded in municipalities which have approved a local referendum permitting the operation of small games of chance;
- Provides that tavern licensees adhere to the same advertising restrictions as other organizations playing small games of chance (current law states that no organization can advertise their games and prizes).

Legislative Budget and Finance Report:

- Provides that each year the Legislative Budget and Finance Committee issue a report to the General Assembly analyzing the impact of tavern gaming on the Lottery.
- Provides that the Governor may submit a request to the General Assembly to authorize a transfer of funds from the General Fund to the Lottery Fund if there has been a loss to the Lottery Fund.

Effective Date: The changes to “Major League Sports Drawing” and “Major League Sporting Team” and other changes to these drawings take effect immediately. The remainder of the Act is in effect in 60 days.

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**C. CURRENT LAW:**

The Local Option Small Games of Chance Act (Act 156 of 1988) recognizes that certain nonprofit organizations need to raise funds, for the promotion of charitable or civic purposes, by operating small games of chance. The Act establishes the rules, regulations, and guidelines necessary for the conducting of small games of chance.

**D. BACKGROUND OF BILL:****Major League Sports Drawing:**

HB 1098 was introduced by the prime sponsor at the request of the Hershey Bears. The prime sponsor has stated that major league teams in Pennsylvania currently permit 50/50 raffles at their home games throughout the season, with the proceeds shared by the raffle winner and local charitable organizations. According to the prime sponsor, these raffles are a great way to raise significant charitable dollars that go back into the community, and are inexpensive for fans (\$1 or \$2 tickets).

The PA teams that hold 50/50s are: Philadelphia Flyers, Philadelphia Union, Pittsburgh Penguins, and Pittsburgh Pirates.

**Tavern Gaming:**

In the Senate, the sponsor of the amendment in the Senate (Senator White) stated that over the years the General Assembly has done a lot for the private clubs that offer small games of chance. He believes that it is time to help private business and put the taverns on equal footing with the clubs.

**E. ISSUES AND POLICY QUESTIONS:****Major League Sports Drawing:**

**PRO:** These raffles are a great way to raise significant charitable dollars that go back into the community, and are inexpensive for fans (\$1 or \$2 tickets). The nonprofit organization operating the raffle will be subject to all of the licensing standards and reporting requirements as other eligible organizations under the Small Games of Chance Act.

**SUPPORT:** Hershey Bears, Pittsburgh Steelers.

**CON:** Many sporting events are opportunities for families to be together and enjoy their time together and gambling should not be included during this family time. While these raffles are not allowed to be sold in "Family Sections" in the stadiums, this could be deemed as an expansion of gambling.

**OPPOSE:** \*None known at this time.

**NEUTRAL:** Department of Revenue, Harrisburg Senators.

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Tavern Gaming:

**PRO:** Tavern Gaming is a revenue generator for PA. It has been estimated that with the proceeds and licensee/renewal fees from tavern gaming, PA could obtain \$156 million a year for the General Fund.

Tavern Gaming helps support small, local businesses that are struggling.

**SUPPORT:** PA Taverns Association, PA Fire Institute.

**CON:** This is direct competition with our current small games of chance licensees, many of which are struggling to remain open.

**OPPOSE:** PA State Police, PA Fraternal and Social Organizations, The Meadows Casino, PA Association of Nationally Chartered Organizations.

**NEUTRAL:** VFWs, American Legions, PA Gaming Control Board, Parx Casino, Lady Luck Casino (Nemocolin), Mohegan Sun casino, Sand Casino.

The Administration and Department of Revenue are supportive of the concept of Tavern Gaming. The language inserted allowing Legislative Budget and Finance to report on any losses to the Lottery has been supported by the Administration.

The District Attorney's Association has stated they have concerns on the legislation, but have not stated they are opposed.

*\*Comments have been solicited from: All of the operating casinos, the Treasurer's Association and the Restaurant Association*

**F. FISCAL INFORMATION:**

A fiscal note prepared by Senate Appropriations states that based on the Governor's Budget Office projections, it is anticipated that 2,000 tavern gaming licenses would be obtained in Pennsylvania. Assuming that not all will yield the maximum payout each week, House Bill 1098 would generate tax revenues of \$156 million in a full year.

Because the bill does not take effect for 60 days and LCB and BIE of the Gaming Control Board will need time to complete licensing, the Governor's Budget Office assumes that minimal tax revenue for this fiscal year will be approximately \$36 million.

**G. BILL STATUS AND SIMILAR LEGISLATION:**

**Bill History** – Final HOUSE passage, 5/15/13 (177-19)  
Final SENATE passage, 10/23/13 (39-11)

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