

2-22-06

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Revenue		RECEIVED 2004 MAY 26 AM 10:26 INDEPENDENT REGULATORY REVIEW COMMISSION IRRC Number: 2138
(2) I.D. Number (Governor's Office Use) 15-425		
(3) Short Title Local Option Small Games of Chance		
(4) PA Code Cite 61 Pa. Code §§ 901.1 – 901.811	(5) Agency Contacts & Telephone Numbers Primary Contact: Mary R. Sprunk (717) 783-7524 Secondary Contact: Douglas Berguson (717) 346-4633	
(6) Type of Rulemaking (check one) <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. This regulation contains comprehensive amendments to 61 Pa. Code, Part VII. Small Games of Chance, to incorporate legislative changes made to the Local Option Small Games of Chance Act (10 P.S. §§ 311 – 328) by the act of December 19, 1990 (P.L. 812, No. 195) (Act 195) and the act of October 18, 2000 (P.L. 602, No. 79) (Act 79); and to codify policy and administrative changes regarding games of chance. Reference should be made to the preamble for a detailed summary of the amendments.		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. Statutory authority for the regulation is contained in section 9 of the act of December 19, 1988 (P.L. 1262, No. 156) (10 P.S. § 319).		

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated by federal or state law, court order or federal regulation.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The regulation is necessary to bring Title 61 into conformity with legislative and policy changes regarding games of chance.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no public health, safety, environmental or general welfare risks associated with nonregulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Eligible organizations, manufacturers, distributors and licensing authorities will benefit from having the Department's regulations consistent with the governing statute.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No parties should be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Manufacturers and distributors will be required to comply with the regulation. The regulations will apply to eligible organizations located in municipalities which have adopted the act by an affirmative vote in a municipal referendum under the act.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

A copy of the regulation was forwarded to the Pennsylvania Bar Association, the Pennsylvania Institute of Certified Public Accountants, the Pennsylvania Society of Public Accountants, the Pennsylvania Chamber of Business and Industry, the Pennsylvania County Treasurer's Association, the Pennsylvania District Attorney's Association, the Liquor Control Board and the State Police. A copy of the regulation was also forwarded to several nonprofit charitable, religious, fraternal, veteran and civic associations. The regulation was listed in the Department's Agenda of Regulations published at 35 Pa.B. 810 (February 5, 2005) & 35 Pa.B. 3704 (July 2, 2005) and will be forwarded to interested parties upon request. The proposed regulation was published at 34 Pa.B. 5563 (October 9, 2004). Public comments were received from the National Association of Fundraising Ticket Manufacturers (NAFTM) and the Pennsylvania State Association of Township Supervisors (PSATS).

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The amendments are designed to bring the Department's regulations into conformity with the Local Option Small Games of Chance Act as amended by the Legislature. Any costs or savings to the regulated community would be attributable to the enabling statute.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

This regulation does not increase costs or savings to local governments. No legal, accounting or consultant procedures are required by the regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

This regulation does not increase costs or savings to state government by any significant amount. No legal, accounting or consultant procedures are required by the regulation.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	N/A					
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs	N/A					
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A					

(20a) Explain how the cost estimates listed above were derived.

The savings from implementing this regulation are insignificant. The costs of implementing this regulation are minimal.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
	N/A	N/A	N/A	N/A

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Since the amendments do not fundamentally alter existing law, this regulation generally provides clarification of existing policy and is not expected to have significant fiscal impact.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no nonregulatory alternatives associated with the regulation.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no alternative regulatory schemes associated with the regulation.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

This regulation relates to games of chance, there is no comparative Federal statute.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Gambling in the Commonwealth is strictly prohibited except for a few forms, such as games of chance. The regulations will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation does not affect any other existing or proposed regulation of the Department or any other state agency.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Department has not scheduled any public hearings or informational meetings to discuss the regulation.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports, which will be required as a result of implementation, if available.

Changes to reporting requirements were made in the following sections: 901.150, 901.191(20), 901.194, 901.405 and 901.407.

Changes to record keeping requirements were made in the following sections: 901.401 - 901.407, 901.464(9) and 901.464a.

Changes to paperwork requirements were made in the following sections: 901.102(b), 901.103(2) and 901.213.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special groups are affected by the regulation.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

This regulation will be effective upon final publication in the Pennsylvania Bulletin. Compliance with the regulation is required upon publication. Specifics regarding licensing provisions are set forth in the regulation.

(31) Provide the schedule for continual review of the regulation.

This regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

CDL-1

FACE SHEET
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WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

2-22-06

2-138

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2006 MAY 26 AM 10:27

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INDEPENDENT AGENCIES
REVENUE COMMISSION

Copy below is hereby approved as to form and legality. Attorney General

By: _____
(Deputy Attorney General)

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

PA Department of Revenue
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 15-425

DATE OF ADOPTION _____

BY Gregory C. Fajt
TITLE Secretary of Revenue
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies

BY DAVID J. DEVERES

MAY 16 2006

DATE OF APPROVAL
EXECUTIVE

(Deputy General Counsel)
(Chief Counsel-Independent Agency)
(Strike inapplicable title)

Check if applicable. No Attorney General Approval or objection within 30 days after submission.

NOTICE OF FINAL RULEMAKING

DEPARTMENT OF REVENUE

61 Pa. Code §§ 901.1 - 901.811

Local Option Small Games of Chance

PREAMBLE

The Department of Revenue (Department), under section 9 of the Local Option Small Games of Chance Act (act) (10 P.S. § 319), proposes to amend Chapter 901 (relating to small games of chance) to read as set forth in Annex A.

Purpose of Regulation

This regulation contains comprehensive amendments to Chapter 901 to incorporate into the act, legislative changes made by act of December 19, 1990 (P.L. 812, No. 195) (Act 195) and the act of October 18, 2000 (P.L. 602, No. 79) (Act 79). This rulemaking also codifies policy and administrative changes regarding games of chance.

Explanation of Regulatory Requirements

The Department is proposing numerous global changes to Chapter 901 to amend terminology, including deletion of the term "small" in conjunction with the phrase "games of chance." This amendment modifies the regulation to be more consistent with the enabling statute. Examples of other changes include the replacement of "club" with "eligible organization" to be consistent with the change made in Act 195, the replacement of "county" with "licensing authority," the replacement of "registration" with "certificate" and the replacement of "special permit" with "special raffle permit." Numerous minor additions, revisions and deletions (including changes from passive to active

voice) are made for clarity and readability, to sections throughout Chapter 901.

Subchapter A. General Provisions

Definitions

Several revisions to § 901.1 (relating to definitions) are proposed to bring the definitions into conformity with statutory changes and to codify policy and administrative changes. An explanation of each addition or change is provided and definitions of the following terms are added for clarity: "applicant," "application," "chance," "license," "licensee," "manufacturer" "registration certificate" or "certificate," "non-operating day," "Office of Attorney General," "pull-tab game," "punch," "registrant," "registration," "special raffle permit" and "State Lottery Law."

The following provisions are referenced in Act 195 and definitions are added to explain the terms: "auxiliary group," "normal business or operating site" and "operating day."

"Bona fide member" is amended to delete references to "club" and adds reference to the term "eligible organization." "Civic and service association" is defined in section 3 of Act 195 (10 P.S. § 313) and is added for use in the regulation. Within this definition the term "bona fide" is used. For purposes of these regulations, "bona fide" shall be interpreted according to its

common usage that is defined as follows: "in or with good faith, honestly, openly, and sincerely--without deceit or fraud."

"Club" was amended in section 3 of Act 195.

The following terms are defined in section 3 of Act 195 and added for use in the regulation: "daily drawing," "dispensing machine," "eligible organization," "fraternal organization" and "passive selection device."

The following definitions are amended for clarity: "deal," "flare," "manufacturer," "petition," "petitioner" and "punchboard."

"Distributor" is amended to delete references to "small" and "club" and adds reference to the term "eligible organization."

The following definitions are amended to delete references to the term "small": "distributor's representative," "manufacturer" and "manufacturer's representative."

"Games of chance" is amended for clarity and because of revisions to section 3 of Act 195 and section 3 of Act 79 (10 P.S. § 313).

The following definitions are added for use in the regulation: "hold ticket," "seal card" and "home association."

"Legitimate club purposes" is deleted in accordance with amendments to section 3 of Act 195. The term is replaced with "public interest purpose."

Although "licensed premises" was used in the original enabling statute, it was not defined in the original regulations. The term is again used in Act 195 and a definition is added for clarity.

"Limited occasion license" is added to explain a new type of license authorized in section 10(b.3) of Act 195 (10 P.S. § 320(b.3)).

"Lottery" is deleted in accordance with amendments in section 3 of Act 195.

"Operating week" is added for clarity and use in the regulation. The term replaces the phrase "7-day period."

"Public interest purposes" is defined within the amendments in section 3 of Act 195. The term replaces "legitimate club purpose" and the definition is added for use in the regulation.

"Pull-tab" and "raffle" are amended because of revisions to section 3 of Act 195.

The definition of "responsible person" is amended for clarity, to update references of the term "club" to "eligible organization" and delete references to the term "small."

"Veterans organization" is added because of revisions to section 3 of Act 195.

"Weekly drawing" is added because of revisions to section 3 of Act 79.

General Applicability

Section 901.22 (relating to use of proceeds) is deleted because the subject matter is adequately addressed at § 901.701 (relating to games of chance permitted). The existing text of § 901.23 (relating to restriction of sales) is deleted and replaced with more explanatory language regarding the restrictions on sales by a registered manufacturer, a licensed distributor and the purchase of games of chance by an eligible organization. Section 901.23(a) (relating to the effect of denial, suspension, revocation, expiration of a certificate, license or game of chance) is added to explain that a certificate, license or game of chance that has been denied, suspended, revoked or expired is not valid.

Section 901.28(a)(2) (relating to inspection of premises) is amended to allow inspection when a reasonable belief exists that a violation of the act or Chapter 901 has occurred, is occurring or will occur. Paragraph (3) is amended to specifically provide that an inspection shall be limited to the inspection of matters, areas and records associated with games of chance to insure compliance with the act and this part. Subsection (b) is amended to allow the Department or its authorized representatives to make annual inspections for compliance purposes.

Section 901.31 (relating to examination of records) is amended to clarify that an examination of records can be made

apart from the examination made during an inspection of the premises. Subsections regarding actions by the district attorney and other law enforcement officials are deleted because they are beyond the scope of these regulations.

Section 901.34 (relating to disputes) is amended to clarify that the retention period for records regarding a dispute about whether the chance is a winning chance, starts at the date of the dispute rather than at the date of resolution.

Section 901.40 (relating to prohibition of gambling facilities) is deleted in the final rulemaking because the language was duplicative of § 901.513.

Section 901.41 (relating to operating days, nonoperating days and operating weeks) is renumbered to § 901.40 as a result of the above change. This section is added to provide guidance regarding the concept, for purposes of game operations.

Administration

The introductory language in § 901.51 (relating to power and duties) is amended to clarify that the lists of powers and duties are not all inclusive. In addition, paragraph (10) is added to specifically state that the Department has the power and authority to initiate legal proceedings, in law or equity, before any court or tribunal, for purposes of administering or enforcing the provisions of the act or Chapter 901. Other provisions are amended or added for clarity. Subsections (b) and (c) (relating

to the powers and duties of the licensing authority and relating to the powers and duties of the district attorney and other law enforcement officials) are deleted because they are beyond the scope of these regulations.

Subchapter B. Licensing and Registration

Manufacturer Registration

Sections 901.101, 901.102 and 901.103(5) (relating to manufacturer registration and game approval required, registration and game approval forms, and manufacturer registration application form contents) are amended by adding language outlining the game approval process.

Section 901.103(2) (relating to manufacturer registration application form contents) is deleted and replaced with more explanatory language regarding the application requirements for games of chance manufacturers.

Section 901.103a (relating to change of application information) is added to provide that a manufacturer shall report any changes to the information supplied in its application to the Department within 15 days of the change.

Section 901.106 (relating to registration term) is amended to specifically detail the manufacturer's registration term.

Section 901.107 (relating to annual applications) is amended to give the Department 60 days to process registration applications prior to the end of the registration term as

permitted under § 901.118 (relating to registration decision time limit). With this revision, a manufacturer that complies should not have a break in registration coverage.

Section 901.109 (relating to certificate) is amended to explain that a manufacturer's certificate must be maintained on the manufacture's premises and available for inspection upon request of certificate.

Section 901.112 (relating to prohibited sales) is deleted because the topic is addressed in the provisions proposed at § 901.23(a) (2) (relating to restriction of sales).

Section 901.113(a) (relating to representatives of manufacturer) is deleted because the topic is addressed in the provisions proposed at § 901.23(a) (2).

To bring § 901.114 (relating to dissolutions, terminations, mergers and bankruptcies) into conformity with § 901.148 (relating to dissolutions, terminations, mergers and bankruptcies), the section is amended by adding a subsection (b) which provides that a notice of the decision to dissolve is required even if filing is not required.

Consistent with amendments in §§ 901.101 and 901.102 relating to game approval, § 901.117(a) (relating to denial, notice of violation and revocation) is amended by adding to the enumerated acts for which the Department has the authority to deny an application for a certificate, provide a notice of violation or

revoke a certificate. Subsection (b) is added to provide that the Department may deny an application for a game of chance approval and may provide a notice of violation or revoke an approved game of chance if the game fails to meet the requirements of the act or Chapter 901. The addition of subsection (c) sets forth that a manufacturer in violation with the act or this part will be notified of the violation and has an opportunity to remedy the violation.

Section 901.117a (relating to registration following revocation) is added to provide guidance on the length of time a manufacturer whose certificate is revoked is ineligible to apply for and receive another certificate for a first, second, third and subsequent revocation.

Section 901.119 (relating to raffle, daily drawing and weekly drawing ticket manufacturers) is amended to clarify that §§ 901.101 - 901.118 do not apply to manufacturers who only produce and sell raffle, daily drawing and weekly drawing tickets.

Distributor Licensing

Section 901.132 (relating to license application form) is amended to clarify that to obtain a license, a distributor must submit a license application to the Department.

Section 901.133(a) (relating to change of application information) is added to provide that a distributor shall report

any changes to the information supplied in its application to the Department within 15 days of the change.

Section 901.136 (relating to license term) is revised to provide a more accurate description of a distributor license term.

Section 901.137 (relating to annual application) is also completely revised to give the Department 60 days to process license applications prior to the end of the licensing term as permitted under § 901.152 (relating to licensing decision time limits). Thus, a distributor that complies with the licensing terms should not have a break in licensing coverage.

Section 901.142(a) (relating to distributor's representative) is deleted because the topic is addressed in the provisions proposed at § 901.23(b) (2). The remaining text is reformatted accordingly.

Section 901.150 (relating to changes in ownership or personnel) is amended by requiring changes in responsible persons to be reported to the Department within 15 days of the deletion or addition. The time period in which to make the report is amended to provide the Department with more current information.

Section 901.151 (relating to denial, notice of violation and revocation of licenses) is amended by adding clarifying language to a new subsection (a) and by adding subsections (b) and (c) relating to notice of violation and notice. The notice of

violation and notice provisions are consistent with those added to § 901.117 for manufacturers.

Section 901.151a (relating to licensing following revocation) is added to provide guidance on the length of time a distributor whose license is revoked is ineligible to apply for and receive another license for a first, second, third and subsequent revocation.

Section 901.153 (relating to raffle, daily drawing and weekly drawing ticket distributors) is amended to clarify that §§ 901.131 - 901.152 do not apply to distributors who only sell raffle, daily drawing and weekly drawing tickets.

Board Procedures

Sections 901.161, 901.165 and 901.168 (relating to jurisdiction and purpose, board practice and procedure, and stay of appeal) are amended to revise the wording to make it consistent with revisions being made throughout Chapter 901.

Eligible Organization Licensing

Sections 901.181 - 901.190 are reserved.

Section 901.191 (relating to license application form) is amended to reflect the changes to section 10 of Act 195, including the addition of paragraph (20) requiring a list of the eligible organization's auxiliary groups which may operate games of chance under the eligible organization's license.

Sections 901.192 - 901.194 are reserved.

With the addition of the limited occasion license under section 10(b.3) of Act 195 (10 P.S. § 320(b.3)), the Department added § 901.195 (relating to types of licenses) to distinguish between a game of chance and limited occasion license and to clarify that an eligible organization may only hold one type of license at a time.

Section 901.196 (relating to limited occasion license requirements, limits and restrictions) is also added to provide information on the use of a limited occasion license and related restrictions.

Section 901.197 (relating to change of application information) is added to provide that an eligible organization shall report any changes to the information supplied on its license application to the licensing authority within 15 days of the change.

Sections 901.211 - 901.219 are reserved.

Subchapter C. Local Option

Local Option Requirement and Local Option Reporting

Consistent with the requirements of section 10(g) of Act 195 (10 P.S. § 320(g)), § 901.309 (relating to public information) is amended to acknowledge that information regarding the approval or disapproval of games of chance by local referendum can be obtained from the licensing authority and the county board of elections.

Subchapter D. Recordkeeping

County Records and Reports

Sections 901.401 - 901.404 and 901.406 are reserved.

The Department is deviating from standard drafting rules in §§ 901.405 and 901.407 in that where the term "shall" would normally be used, it is instead using "will," since the provisions are those of the licensing authority and the use of "will" is appropriate when the licensing authority is pledging to act.

To bring § 901.405 (relating to list of licensed eligible organizations) into conformity with the enabling statute, the section is amended to state that the licensing authority will submit, on a biannual basis, a copy of all information regarding licensees to the Department. The section is further amended to require the information to include the type of license and any special raffle permit serial number.

Although some of these rules are noted elsewhere, a new § 901.407 (relating to list of municipalities) provides the licensing authority with a central place to reference the rules regarding the maintenance of a list of municipalities that have approved the referendum question on games of chance.

Manufacturing Records and Reports

Section 901.423 (relating to annual records) adds clarification language for maintaining annual records for no less than five years.

The existing text of § 901.425(1) (iv) (relating to records) is amended to include that each game listed on the invoice which the Department has approved for sale must be clearly noted.

Distributor Records and Reports

Section 901.443 (relating to annual records) adds clarification language for maintaining annual records for no less than five years.

Licensed Eligible Organization Records

Section 901.461 (relating to annual records) adds language to conform to the statutory requirement of a two-year record retention requirement for annual records of licensed eligible organizations.

For consistency with the rules regarding record requirements for raffles and daily drawings, paragraph (9) is added to § 901.464 (relating to punchboard and pull-tab records) requiring a list of winners' names and addresses for prizes in excess of \$100.

The definition of games of chance was broadened by section 3 of Act 195 (10 P.S. § 313) to include daily drawings and by section 3 of Act 79 (10 P.S. § 313) to include weekly drawings. Section 901.464a (relating to daily and weekly drawing records) is added to provide guidance regarding record keeping requirements for each of these games.

Subchapter E. Prohibited Activities/Penalties

Prohibited Activities

In accordance with section 15 of Act 195 (10 P.S. § 325), § 901.501 (relating to advertising) is amended to provide that an eligible organization may advertise prizes and values thereof in periodic publications that are limited in their circulation to members of the eligible organization.

Section 901.502(c) (relating to persons) is amended to reflect changes to section 10(d) (2) of Act 195 (10 P.S. § 320(d) (2)) regarding conviction of a felony or a violation of the Bingo Law (10 P.S. §§ 301 - 308.1).

Act 195 amended section 10(d) (3) (10 P.S. § 320(d) (3)) by deleting the requirement that the persons conducting the games of chance be bona fide members of the club for at least 1 year. Therefore, § 901.504 (relating to persons who may conduct games) is amended to delete the 1 year requirement.

To be consistent with the prize limitation exceptions for both a daily drawing and weekly drawing as set forth in section 5(f) and (g) of Act 195 and section 5(g) and (h) of Act 79 (10 P.S. § 315(f) - (h)), §§ 901.507 and 901.508 (relating to prizes in excess of \$500 and prizes in excess of \$5,000) are amended.

Act 195 amended section 10(d) (7) (10 P.S. § 320(d) (7)) regarding the use of a licensed eligible organization's premises by another licensed eligible organization. Section 901.510

(relating to use of licensed premises by more than one organization) is amended to incorporate the new statutory guidelines in this area.

Section 901.512 (relating to oral and written leases) is added to address the provisions of section 10(b.1) and (d) (5) of Act 195 (10 P.S. § 320(b.1) and (d) (5)).

Section 901.513 (relating to gambling facilities prohibited) is added to address the provisions of section 10(b.4) of Act 195 (10 P.S. § 320(b.4)).

Penalties

To be consistent with the revisions to section 17 of Act 195 (10 P.S. § 327) regarding penalties for violations of the provisions of the act by eligible organizations and individuals, §§ 901.531 and 901.532 (relating to eligible organizations and individuals) are revised.

Subchapter F. Manufacturing Standards

Pull-Tab Manufacturing Standards

Section 901.601(a) (relating to uniform minimum quality standards) is amended to correct the reference to the North American Gaming Regulations Association (N.A.G.R.A.) publication regarding manufacturing standards for pull-tab games and to provide clarity with regard to the application of the standards.

Section 901.601(c) is added to provide guidance for the randomization of pull-tabs in a deal so as to eliminate any pattern in the location of winning pull-tabs.

Sections 901.602 and 901.621 (relating to flares) are amended to clarify who can make a flare and who can alter a flare.

Sections 901.608 and 901.627 (relating to standards for flares) are amended to clarify the rules regarding flares.

Punchboard Manufacturing Standards

Section 901.622 (relating to standards for construction) is amended by adding a new paragraph (1) to describe four general construction guidelines relating to the punchboard face sheet, flare, serial numbers and punches. The existing paragraphs are renumbered accordingly.

Section 901.631 (relating to subcontracting and manufacturer responsibility) is added to provide guidance to subcontractors of games of chance and registered manufacturers who elect to subcontract the manufacturing or production of games of chance.

Section 901.632 (relating to predetermination of rules, winning chances and prizes) is added to provide that a manufacturer of pull-tab games or punchboards must predetermine the rules and prizes.

Section 901.633 (relating to the prohibitions against participant control of winning chances or prizes) is added to explain that a participant who purchases a chance in the game is

prohibited from controlling, effecting or choosing the winning chance(s) or the corresponding prize(s).

Subchapter G. Operation of Games

Eligible Organization Operation of Games

Section 901.701(c) (relating to games of chance permitted) is added to explain that a participant who purchases a chance in a game is prohibited from controlling, effecting or choosing the winning chance(s) or corresponding prize(s).

Section 901.701a (relating to license required) reflects various licensing revisions. Subsection (a) is added to explain that an eligible organization may not conduct or operate games of chance without a valid license. Subsection (b) is added to explain the licensing requirements pertinent to auxiliary groups.

Section 901.701b (relating to display) is added to explain that a licensed eligible organization is required to display its license at the site where it conducts games of chance.

Section 901.701c (relating to location of games) is added to provide guidance to eligible organizations regarding the location of games.

Section 901.702 (relating to prize limits) is amended to reflect various statutory revisions. The total cash value of prizes that can be awarded under special raffle permits set forth in § 901.702(d) is amended to reflect the statutory change in section 5(d) (4) of Act 79. Subsection (e) is added to explain

the prize limit exceptions for daily drawings in section 5(e)--(g) of Act 79. Subsection (f) is added to explain the prize limit exceptions for weekly drawings in section 5(g) and (h) of Act 79.

Section 901.703 (relating to place of conduct) is amended to reflect the statutory changes in section 10(b.1) and (b.2) of Act 195 regarding where games of chance can be conducted.

Section 901.704 (relating to licensed premises) is revised to reflect the new statutory provisions regarding the location of games of chance set forth in section 10(b.1) and (d)(5) of Act 195.

Section 901.705 (relating to purchase of games) is amended to incorporate the statutory change set forth in section 10(d)(6) of Act 79 (10 P.S. § 320(d)(6)) regarding the purchase of weekly drawings.

Section 901.706 (relating to persons who may not operate or play games of chance) is amended to reflect the changes set forth in section 10(d)(1) and (2) of Act 195 regarding persons permitted to operate or play games of chance and the conviction of a felony or a violation of the Bingo Law.

The 1 year membership requirement set forth in § 901.708 (relating to persons who may conduct games of chance) is deleted in accordance with the amendment in section 10(d)(3) of Act 195.

Section 901.709 (relating to one eligible organization per premises) is amended to reflect section 10(b.1) of Act 195

regarding the use of a premises by more than one eligible organization.

With the deletion of section 11(c) in Act 195 (10 P.S. § 321(c)) relating to the prohibition of use of a licensed premises by more than one licensed club for a special raffle permit in a calendar year, § 901.711 (relating to location for special permit raffles) is deleted.

Section 901.712 (relating to raffle, daily drawing and weekly drawing game rules and prizes) is added to describe the guidelines an eligible organization must establish prior to conducting a raffle, daily drawing or weekly drawing.

Punchboards and Pull-tab Operation Procedures

Section 901.731(b) (relating to punchboard and pull-tab operation) is amended by placing the current text in paragraph (1) and adding paragraph (2) to describe under what conditions a licensed eligible organization may alter a flare. Subsection (e) (3) is deleted and replaced with more explanatory language regarding the procedure that will be used to preserve the randomization of a pull-tab deal. Subsection (e) (5) is added to explain that no deals shall be commingled.

Raffles

With the removal of the restriction on sales of raffle tickets in section 10(d)(4) in Act 195, § 901.742 (relating to drawing dates) is revised to provide guidance on the new rules

relating to raffle drawing dates consistent with the definition of "raffle" as amended in section 3 of Act 195.

Section 901.743(b) (relating to raffle tickets) provides that generally, each part of a raffle ticket shall be imprinted with sequential numbers commencing with the number "1" through the maximum number of tickets to be sold. Subsection (b) is amended to clarify that when a raffle winner is determined by a drawing of the Pennsylvania State Lottery, the universe of eligible ticket numbers shall correspond to the universe of eligible numbers in the State Lottery drawing.

Consistent with the change to the definition of "raffle" in section 3 of Act 195, § 901.745 (relating to printing requirements) is amended to provide that dates, times and locations of the drawings shall be printed on each raffle ticket sold.

Section 901.751 (relating to ticket sales) is amended to incorporate the new rules relating to the sale of raffle tickets in a municipality located in a county other than the county in which the eligible organization is licensed in section 10(d)(8) of Act 195.

In accordance with the provisions set forth in the definitions of "passive selection device" and "raffle" in section 3 of Act 195, § 901.753 (relating to means of determining winning numbers) is added to provide guidance in this area.

Lotteries

Because lotteries are no longer considered a separate game of chance, but rather a type of raffle under the revisions to the definitions of "games of chance," "lottery" and "raffle" in section 3 of Act 195, §§ 901.761 - 901.778 are deleted.

Daily Drawings

Sections 901.781 - 901.786 are added to provide guidance regarding the rules for daily drawings, which were authorized by Act 195.

Weekly Drawings

Sections 901.791 - 901.796 are added to provide guidance regarding the rules for weekly drawings, which were authorized by Act 79.

Subchapter H. Special Raffle Permits

Special Raffle Permits

The title of § 901.801 currently listed as "(relating to price limit)" is corrected to reference "prize limit" and the section is amended to reflect the change to section 5(d)(4) of Act 79 regarding the total cash value permitted of all special raffle permit prizes for the calendar year.

In accordance with the deletion of paragraph (13) in section 12(a) of Act 195 (10 P.S. § 322(a) (13)), § 901.802 (relating to raffle number limit) is amended to delete the second sentence

which provided that an eligible organization may hold only one raffle per month, including a special permit raffle.

Section 5(d)(2) was amended by Act 195 to provide an exception to the general rule that an eligible organization shall be eligible to receive no more than two special permits in any licensed year for volunteer fire, ambulance and rescue organizations. Section 901.803 (relating to special raffle permit limit) is amended to reflect this change in eligibility.

Section 901.806 (relating to required permit) is amended to clarify the special raffle permit requirements.

Sections 901.807 and 901.811 (relating to fees and location limits) are reserved.

Affected Parties

All manufacturers and distributors of games of chance doing business in this Commonwealth, licensing authorities and eligible organizations may be affected by the proposed amendments.

Comment and Response Summary

Notice of proposed rulemaking was published at 34 Pa. B. 5561 (October 9, 2004).

The Department has prepared a comment and response document that is available to interested parties by contacting Mary R. Sprunk, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, Pennsylvania 17128-1061.

During the proposal stage of Annex A, the Department received numerous comments. In their evaluation of Annex A, the Independent Regulatory Review Commission (IRRC) provided a majority of the comments. In addition, the Department received various comments from both the public and the Senate Finance Committee. The Department did not receive any comments from the House Finance Committee. Set forth below is a summary of the Department's reaction to the key issues referenced in the comments:

All provisions for "licensing authorities" have been deleted from the final form regulations. To provide guidance to licensing authorities, the Department has developed "SGOC Licensing Authority Model Rules" for County Treasurers.

Subchapter I, relating to enforcement, was deleted from the final form regulations. The Department agreed with IRRC and recognizes that the purpose of a regulation is to place specific duties or obligations on an agency and the regulated community. The intent of subsection I was merely informational and will be published through Department informational systems and publications.

In accordance with §§ 901.117 and 901.151, rather than suspending a manufacturer or distributor's license, the Department will send a notice of violation, describing the infraction and providing a time limit for its correction.

For purposes of clarity, numerous definitions have been added to § 901.1 (relating to definitions) of the final form regulation.

This proposal is being adopted with changes as set forth in Annex A.

Fiscal Impact

The Department has determined that the proposed amendments, which provide clarification of existing policy, will have no significant fiscal impact on the Commonwealth.

Paperwork

The proposed amendments will not generate additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The regulation will become effective upon final publication in the Pennsylvania Bulletin. The regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

Contact Person

The contact person for an explanation of the amendments is Mary R. Sprunk, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, Pennsylvania 17128-1061.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 29, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B.

5563 (October 9, 2004) to the Independent Regulatory Review Commission (IRRC), the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment. In compliance with section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC, the Committees and the public.

These final-form regulations were (deemed) approved by the Committees on _____ and were approved by IRRC on _____, in accordance with section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5(a) (e)).

Findings

The Department of Revenue finds that:

(1) Public notice of intention to amend the regulations has been duly given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations under 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendments are necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 61 Pa. Code, are amended by Chapter 901 (relating to small games of chance) to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality as required by law.

(c) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the Pennsylvania Bulletin.

GREGORY C. FAJT
SECRETARY OF REVENUE

1/05/06

CONTINUATION SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

ANNEX A

Title 61. Revenue, Part VII. Local Option Small Games of
Chance, Chapter 901. Local Option Small Games of Chance.

Subchapter A. GENERAL PROVISIONS

DEFINITIONS

§ 901.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

* * *

Applicant - A person who prepares and files an application.

Application - A form prescribed by the Department that a manufacturer, distributor or eligible organization must complete and file to obtain a license or certificate.

Auxiliary group -

(i) A DIVISION, subsidiary or affiliated organization OR ASSOCIATION, INCORPORATED OR UNINCORPORATED, of an eligible organization established WHOSE BUSINESS AND OPERATION IS SUBJECT TO AND RESTRICTED BY THE BYLAWS, RULES, REGULATIONS AND PROCEDURES OF THE ELIGIBLE ORGANIZATION AND THAT IS ESTABLISHED SOLELY for the purpose of aiding or assisting the eligible

organization and its members in the fulfillment of the eligible organization's purposes.

(ii) THE TERM DOES NOT INCLUDE HOME ASSOCIATIONS.

* * *

Bona fide [club] member - An individual who holds a [full] membership in the [club] eligible organization as defined by [the club's] that organization's constitution, charter, articles of incorporation or bylaws.

CHANCE - A RIGHT PURCHASED FOR CONSIDERATION TO PARTICIPATE IN A GAME FOR A PRIZE OFFERED IN THE GAME, WHICH RIGHT IS REPRESENTED BY A TANGIBLE ITEM SUCH AS A TICKET, DOCUMENT, PAPER OR OTHER ITEM.

* * *

Civic and service association -

(i) Any Statewide or a branch, lodge or chapter of a nonprofit National or State organization which is authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a civic or service purpose within this Commonwealth, which shall have existed in this Commonwealth for 1 year.

(ii) The term also means a similar local nonprofit organization, not affiliated with a National or State organization, which is recognized by a resolution adopted by the

governing body of the municipality in which the organization conducts its principal activities.

(iii) The term includes:

(A) Bona fide sportsmen's and wildlife associations, federations or clubs, Statewide or local in nature.

(B) Volunteer fire companies.

(C) Volunteer rescue squads.

(D) Volunteer ambulance associations.

(E) Bona fide senior citizens organizations.

(F) Nonprofit organizations that are recognized by a resolution adopted by the appropriate governing body and which are established to promote and encourage participation and support for extracurricular activities within the established primary and secondary public, private and parochial school systems.

Club - [An entity which has been in existence and fulfilling its purposes for 2 years prior to the date of application for a license and is one of the following:

(i) An incorporated unit of a national veterans' organization, as defined in section 461.1 of the Liquor Code (47 P.S. § 4-461.1), and licensed to sell liquor at retail under that act.

(ii) A club, as defined in section 102 of the Liquor Code (47 P.S. § 1-102), that qualifies as an exempt organization

under section 501(c) or 527 of the Internal Revenue Code (26 U.S.C.A. § 501(c) or § 527), and is licensed to sell liquor at retail and has a charitable, religious or civic purpose or is organized to benefit a political party.

(iii) An organized fraternal society created and carried on for the mutual benefit of its members, not-for-profit and not issuing capital stock, having a limited membership and a representative form of government and licensed to sell liquor at retail under the Liquor Code (47 P.S. §§ 1-101-8-803).

(iv) A not-for-profit religious organization conducting business under the express purpose of a written constitution, charter, articles of incorporation or bylaws.

(v) A charitable organization conducting business under the express purpose of a written constitution, charter, articles of incorporation or bylaws.

(vi) A volunteer fire company.

(vii) A volunteer rescue squad.

(viii) A volunteer ambulance association.] A club, as defined in section 102 of the Liquor Code (47 P.S. § 1-102), that qualifies as an exempt organization under section 501(c) or 527 of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c) or § 527) and is licensed to sell liquor at retail and has a charitable, religious or civic purpose or is organized to benefit a political party.

Daily drawing -

(i) A game in which a bona fide member selects or is assigned a number in exchange for consideration for a chance at a prize with the winner determined by a random drawing to take place on the eligible organization's premises during the same operating day that the chances for the drawing are sold.

(ii) The term includes games commonly known as "member sign-in lotteries" and "half-and-half lotteries."

Deal - [Pull-tab tickets of a game bearing the same serial number as well as a flare for the game.] A set of pull-tabs OR PUNCHES bearing the same serial number.

* * *

Dispensing machine -

(i) A device designed exclusively for the dispensing of games of chance authorized by the act, including ticket jars, fish bowls and stamp machines.

(ii) The term does not include any device commonly known as a "slot machine" or "video poker-" OR ANY DEVICE THAT CONTAINS AS ONE OF ITS COMPONENTS A VIDEO DISPLAY MONITOR THAT IS CAPABLE OF DISPLAYING NUMBERS, LETTERS, SYMBOLS, OR CHARACTERS IN WINNING OR LOSING COMBINATIONS.

Distributor - A person who purchases or otherwise obtains [small] games of chance, including [lottery tickets,] punchboards or pull-tabs, from a manufacturer and sells or

otherwise furnishes the [small] games of chance, with or without merchandise to be awarded as prizes in connection therewith, to another person for the resale, display or operation of the [small] games of chance by [a club] a licensed eligible organization.

Distributor's representative -

(i) A natural person who represents a distributor in connection with the sale or furnishing of [small] games of chance for use in authorized activities.

(ii) The term includes the distributor's sales personnel.

(iii) The term does not include warehouse personnel, delivery personnel and other [employees] employees who only have incidental contact with customers.

Eligible organization - An organization that meets all of the following:

(i) Nonprofit.

(ii) Charitable organization, religious organization, fraternal organization, veterans organization, club or civic and service association.

(iii) In existence and fulfilling its purposes for 1 year prior to the date of application for a license.

Flare - [Sets forth the number of tickets and prizes contained in a deal, as well as the winning numbers, colors and symbols.] A card, graphic, illustration or other document that

~~accompanies a deal~~ IS PART OF A PULL-TAB GAME or punchboard and
satisfies THE REQUIREMENTS OF §§ 901.608 OR 901.627,
RESPECTIVELY. all of the following:

~~(i) Sets forth the number of pull tabs or punches in a~~
~~pull tab game or punchboard.~~

~~(ii) Describes the nature of and rules for conducting a~~
~~pull tab game or punchboard.~~

~~(iii) Sets forth the winning numbers, colors and symbols~~
~~and prizes to be won in a pull tab game or punchboard.~~

~~Fraternal organization - A branch, lodge or chapter of a~~
~~National or State nonprofit organization with its branch, lodge~~
~~or chapter located within this Commonwealth that is created and~~
~~carried on for the mutual benefit of its members, has a limited~~
~~membership and representative form of government~~ AN ORGANIZATION
WITHIN THIS COMMONWEALTH CREATED AND CARRIED ON FOR THE MUTUAL
BENEFIT OF ITS MEMBERS, HAS A LIMITED MEMBERSHIP AND A
REPRESENTATIVE FORM OF GOVERNMENT AND IS A BRANCH, LODGE OR
CHAPTER OF A NATIONAL OR STATE ORGANIZATION.

Games of chance OR GAME - [Punchboards, lotteries]

~~(i) The following games: punchboards, daily drawings,~~
~~weekly drawings, raffles and [pull-tabs] pull-tab games.~~

~~(ii) The term includes all of the parts, accessories and~~
~~items necessary to play such games. The term also includes~~
~~dispensing machines and passive selection devices.~~

(iii) The term does not include a game played by or with the assistance of mechanical, electronic or electrical devices or media[. The term does not include] or a game in which the particular chance taken by a person in the game is made contingent upon another occurrence or the winning of another contest. [The term includes a game in which the chance is determined solely at the discretion of the purchaser.]

(iv) This paragraph will not be construed to authorize another form of gambling currently prohibited under 18 Pa.C.S. (relating to the Crimes Code).

(v) The term does not include games commonly known, as "slot machines" or "video poker."

Hold ticket - A ~~ticket~~ PULL-TAB OR PUNCH in a subset of pull-tabs in a deal or punches in a punchboard DEAL one or more of which are designated in advance as a winning PULL-tab or punch for a specific prize. The winning ~~ticket~~ PULL-TAB or ~~tickets~~ PUNCH are IS revealed after all hold tickets are purchased. Hold tickets are typically used in conjunction with seal cards.

HOME ASSOCIATION - A CORPORATION, ASSOCIATION OR OTHER ORGANIZATION ORGANIZED UNDER THE LAWS OF THE COMMONWEALTH BY A VETERANS ORGANIZATION IN CONFORMITY WITH ITS LOCAL, STATE OR NATIONAL BYLAWS AND MEETS ALL OF THE FOLLOWING:

(i) AFFILIATED WITH THE VETERANS ORGANIZATION.

(ii) HAS A SEPARATE LEGAL EXISTENCE FROM THE VETERANS ORGANIZATION.

(iii) ACCEPTS INTO ITS MEMBERSHIP PERSONS WHO ARE NOT ELIGIBLE FOR MEMBERSHIP IN THE VETERANS ORGANIZATION.

(iv) THE BOARD OF DIRECTORS, OFFICERS AND MEMBERS WITH VOTING RIGHTS OR OTHER CONTROLLING INTERESTS CONSIST SOLELY OF BONA FIDE VETERANS ORGANIZATION MEMBERS.

* * *

[Legitimate club purposes -

(i) One or more of the following:

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

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

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

(D) Improving, expanding, maintaining or repairing real property owned or leased by a club and used for purposes specified in clauses (A)-(C).

(ii) The term does not include the erection or acquisition of real property, unless the property will be used exclusively for one or more of the purposes specified in this paragraph.]

License - A document issued by:

(i) The Department, upon application, to a distributor authorizing the distributor to purchase games of chance from a registered manufacturer and sell games of chance in the Commonwealth to licensed eligible organizations, also known as a distributor's license.

(ii) A licensing authority, upon application, to an eligible organization authorizing the eligible organization to purchase games of chance from licensed distributors and conduct games of chance in the Commonwealth, ~~also known as a small games of chance or games of chance license~~ ON A YEARLY BASIS, KNOWN AS A GAME OF CHANCE LICENSE, OR ON A LIMITED BASIS, KNOWN AS A LIMITED OCCASION LICENSE.

Licensed premises - The specific location upon which a licensed eligible organization is authorized to conduct games of chance.

Licensee - A distributor or eligible organization that has been issued a license.

* * *

Limited occasion license - A license issued by a licensing authority to an eligible organization authorizing the organization to conduct games of chance on a limited basis.

[Lottery - A game in which a bona fide club member or guest selects a number for a chance at a prize with the winner determined by a random drawing to take place on the licensed premises. The term includes games commonly known as "member sign-in lotteries" and "half-and-half lotteries." This part will not be construed to permit lotteries which are conducted at locations other than the licensed premises, nor does the term include a game or contest in which the winning number is determined by another drawing or event, except that winning numbers may be determined by reference to drawings conducted by the Department under the State Lottery Law (72 P.S. §§ 3761-1-3761-15).]

Manufacturer -

(i) A person who assembles from raw materials or subparts a completed [small] game of chance for use in authorized activities, [including punchboards and pull-tabs,] and who sells or otherwise furnishes the same to a licensed distributor.

(ii) The term does not include printers of only raffle, daily drawing or weekly drawing tickets.

~~Manufacturer registration certificate or certificate - A document issued by the Department, upon application, to a manufacturer authorizing the manufacturer to produce games of chance that have been approved by the Department and to sell these games to licensed distributors~~ A DOCUMENT ISSUED BY THE DEPARTMENT, UPON APPLICATION, TO A MANUFACTURER AUTHORIZING THE MANUFACTURER TO SELL GAMES OF CHANCE THAT THE DEPARTMENT HAS APPROVED TO DISTRIBUTORS LICENSED TO SELL GAMES OF CHANCE IN THE COMMONWEALTH.

Manufacturer's representative -

(i) A natural person who represents a manufacturer in connection with the sale or furnishing of [small] games of chance for use in authorized activities.

(ii) The term includes the manufacturer's sales personnel.

(iii) The term does not include warehouse personnel, delivery personnel and other [employees] employees who only have incidental contact with the customers.

* * *

Non-operating day - A period of time equivalent to an eligible organization's operating day except that the eligible organization is closed to normal activities or to its members during that period of time.

Normal business or operating site - The location at which an eligible organization conducts its activities as permitted and enumerated in its constitution, charter, articles of incorporation, bylaws or other document of formation.

Office of Attorney General - The Attorney General of the Commonwealth of Pennsylvania.

Operating day - The period of time during any 24 hour period during which an eligible organization conducts its normal activities or holds itself open to its members.

Operating week - Seven consecutive operating days or non-operating days.

Passive selection device - A device that is used to hold or denote all of the possible winning numbers or entrants in a daily drawing, weekly drawing or raffle. The device may not have the capability of being utilized to conduct or aid in unauthorized or illegal forms of gambling.

* * *

Petition - A written statement of facts, under oath, submitted by one of the following:

(i) [An initial or renewal applicant for registration or licensure] A manufacturer or distributor who disagrees with the Department's decision to deny [the] or refuse to renew its application.

(ii) [A registrant or licensee] A registered manufacturer or licensed distributor who disagrees with the Department's decision to revoke his [registration] certificate or license.

Petitioner - [An applicant, licensee or registrant] A manufacturer or distributor who files a petition.

Public interest purposes -

(i) Any of the following:

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

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

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

(D) Improving, expanding, maintaining or repairing real property owned or leased by an eligible organization and used for purposes specified in clauses(A) - (C).

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

~~Pull-tab - A single folded or banded ticket or a strip ticket or card with a face covered to conceal one or more numbers or symbols, where one or more tickets or cards in each deal has been designated in advance as a winner. [The term includes a ticket sold in a device known as a ticket jar, fish-bowl or stamp machine.]~~ A GAME PIECE IN A PULL-TAB GAME MADE COMPLETELY OF PAPER OR PAPER PRODUCTS WITH CONCEALED NUMBERS OR SYMBOLS THAT MUST BE EXPOSED BY THE PLAYER TO DETERMINE WINS OR LOSSES.

Pull-tab game - A deal OF PULL-TABS and its corresponding flare.

Punch - A crimped strip of paper or similar material that is enclosed in a punchboard receptacle and contains either a winning or losing number or symbol printed on one side and a serial number printed on the other.

Punchboard - A board, placard or other device [marked off in a grid or columns, in which each section contains a hidden number or other symbol, which determines the winning chances, if the following exist:

(i) A specific serial number is assigned to the punchboard and printed on each punch.

(ii) A flare or face sheet covers the receptacles and sets out the winning numbers or symbols and prizes which may be won.

(iii) Upon the payment of consideration, a player may select and remove a punch from a receptacle.

(iv) A prize is awarded if the number or symbol set out on the selected punch matches a predetermined winning symbol on the flare or face sheet.] comprised of receptacles, usually laid out in a grid or column pattern, ~~that each~~ containing a DEAL OF hidden punch or punches, and its corresponding flare. Upon the payment of consideration, a player may select and remove the punches contained in a receptacle. A prize is awarded to a player who selects a receptacle containing a punch with a predetermined winning number or symbol.

Raffle -

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

(ii) The term includes lotteries but not daily or weekly drawings.

(iii) The term does not include the [playing] paying of money or merchandise at roulette wheels, at cards, dice, other

tables or another form of gambling not specifically authorized by law.

Registrant - A manufacturer who is issued a manufacturer registration certificate.

Registration - The process of applying to the Department for a manufacturer registration certificate.

* * *

Responsible person - A person who is connected or associated with [a club] an eligible organization, distributor or manufacturer in a manner that meets at least one of the following criteria:

* * *

(ii) Has the control, receipt, custody or disposal of the [small] games of chance proceeds.

(iii) Has the control, receipt, custody and disposal of available cash on hand or other quick or liquid assets or pays the liabilities of the [club] eligible organization, manufacturer or distributor.

(iv) Has the duty, power or authority to do one of the following:

* * *

(D) Direct the payment of the [entities] entity's liabilities.

* * *

(F) Direct the disposition and use of [small] games of chance proceeds.

* * *

(J) Direct the transaction involved with the sale, manufacture or use of [small] games of chance.

(v) Is [a club] an eligible organization's manager, officer, director or bar personnel involved with the conduct of [small] games of chance.

Seal card - A flare for a pull tab game or punchboard containing hold tickets that designates, among the other winning tickets in the pull tab game or punchboard, the winning hold ticket numbers or symbols each of which are concealed by a paper cover typically referred to as a seal. A BOARD OR PLACARD THAT CONTAINS A SEAL OR SEALS THAT, WHEN REMOVED OR OPENED, REVEAL PREDESIGNATED WINNING NUMBERS, LETTERS OR SYMBOLS.

* * *

Special raffle permit - A document issued by a licensing authority to a licensed eligible organization that authorizes the eligible organization to conduct a raffle with prize limits exceeding the standard prize limits for raffles.

* * *

State Lottery Law - The State Lottery Law (72 P.S. §§ 3761-101 - 3761-2102).

Veterans organization -

(i) A Congressionally chartered organization within this Commonwealth, or any branch or lodge or chapter of a nonprofit National or State organization within this Commonwealth, the membership of which consists of individuals who were members of the armed services or armed forces of the United States.

(ii) The term includes home associations.

Weekly Drawing - A game in which a bona fide member selects or receives a number or numbers in exchange for consideration during an operating week for a chance at a prize with the winner determined by a random drawing to take place on the eligible organization's premises on the last operating day of the eligible organization's operating week.

GENERAL APPLICABILITY

§ 901.21. Applicability.

~~(a)~~ This part applies to manufacturers and distributors [of small] who sell or intend to sell games of chance in this Commonwealth and to [clubs] eligible organizations located in municipalities within this Commonwealth which have adopted the act by an affirmative vote in a municipal referendum under the act.

~~(b)~~ To provide uniform practices, procedures and standards, the following enumerated sections of this part are promulgated for the benefit of and suggested use by the licensing authorities: §§ 901.28, 901.31, 901.51(b),

~~901.185(b), 901.192, 901.193, 901.196, 901.212 901.219,
901.401 901.407, 901.467 and 901.807. The governing body of
each county, on behalf of its licensing authority, shall adopt
the sections by independent act for the sections to have legal
force and effect.~~

§ 901.22. [Use of proceeds] (Reserved).

[The proceeds of small games of chance conducted by a club may not be used for the benefit of a person other than the club conducting the activity. Proceeds may only be used for legitimate club purposes as defined in this part or the act.]

§ 901.23. Restriction of sales.

(a) [A person may not sell, offer for sale or furnish games of chance for use in this Commonwealth except to a club or distributor licensed under the act and this part.

(b) Games of chance, other than a raffle conducted with a special permit, sold or offered for sale or furnished for use in this Commonwealth may not contain, permit, depict or designate a prize having a cash value in excess of \$500.]Manufacturers.

(1) Registration. A manufacturer shall register with the Department and obtain a manufacturer registration certificate to sell, offer for sale or furnish games of chance for use in this Commonwealth. This paragraph does not apply to manufacturers that only sell, offer for sale or furnish raffle,

daily drawing or weekly drawing tickets for use in this Commonwealth.

(2) Sales. A registered manufacturer may only sell, offer for sale or furnish games of chance that have been approved by the Department for sale in this Commonwealth. A registered manufacturer may only sell, offer for sale or furnish approved games of chance for sale in the Commonwealth to a licensed distributor. This paragraph does not apply to the sale of raffle, daily drawing or weekly drawing tickets.

~~(3) Sales invoice. A registered manufacturer selling to a licensed distributor shall indicate on the sales invoice the games of chance that the Department has approved for sale in the Commonwealth.~~

(b) Distributors.

(1) Licensure. A distributor shall apply for and obtain FROM THE DEPARTMENT a distributor license to sell, offer for sale or furnish games of chance in this Commonwealth. This paragraph does not apply to distributors that only sell, offer for sale or furnish raffle, daily drawing or weekly drawing tickets.

(2) Sales. A licensed distributor may only sell, offer for sale or furnish approved games of chance for use within this Commonwealth to another licensed distributor or a

licensed eligible organization. This paragraph does not apply to the sale of raffle, daily drawing or weekly drawing tickets.

(3) Purchase. A licensed distributor may only purchase approved games of chance for resale in this Commonwealth from a registered manufacturer or licensed distributor. This paragraph does not apply to the purchase of raffle, daily drawing or weekly drawing tickets.

(c) Eligible organizations.

(1) Licensure. An eligible organization shall apply for and obtain a games of chance license FROM THE LICENSING AUTHORITY IN THE COUNTY WHERE IT SHALL MAINTAIN ITS LICENSED PREMISES before purchasing games of chance for use in this Commonwealth.

(2) Purchase. A licensed eligible organization may not purchase or lease games of chance for use in this Commonwealth except from a licensed distributor. This paragraph does not apply to the purchase of raffle, daily drawing or weekly drawing tickets.

§ 901.23A. EFFECT OF DENIAL, SUSPENSION, REVOCATION, EXPIRATION OF A CERTIFICATE, LICENSE OR GAME OF CHANCE.

A CERTIFICATE, LICENSE OR GAME OF CHANCE THAT HAS BEEN DENIED, SUSPENDED OR REVOKED OR THAT HAS EXPIRED IS NOT A VALID CERTIFICATE, LICENSE OR GAME OF CHANCE. A PERSON, APPLICANT FOR OR HOLDER OF A CERTIFICATE OR LICENSE OR OWNER OF A GAME OF

CHANCE CANNOT AVAIL HIMSELF OF THE PRIVILEGES THAT THE ACT AND THIS PART CONFERS UPON A HOLDER OF A VALID CERTIFICATE OR LICENSE OR AN APPROVED GAME OF CHANCE FOLLOWING A DENIAL, SUSPENSION OR REVOCATION.

§ 901.24. [Enforcement] (Reserved).

[(a) District attorney. The district attorney will investigate alleged violation of the act. If the district attorney finds probable cause that a violation has occurred, he may file a complaint against the alleged violator in the court of common pleas of the county, except in counties of the first class, where the complaint may be filed in the municipal court. The district attorney will prosecute the complaint in the manner provided by law.

(b) Other law enforcement officials. The power of State, county or local enforcement officials to conduct an investigation and enforce the act and this part is not restricted.]

§ 901.25. Vested rights.

[A license issued by the county or a license or registration issued by the Department will not be construed as granting a vested right in the privileges so conferred.] A certificate or license confers only a privilege on the holder.
A certificate or license confers no vested right in the privilege so conferred.

§ 901.26. Background checks.

(a) As a condition precedent to the issuance of a license or [registration] certificate, the ~~licensing authority or~~ Department may require background checks on a person seeking a license or for whom [registration] a certificate is sought, or [employees] employees thereof, or of a person participating as an [employee] employee who will be involved in the operation of [small] games of chance or a person with equity ownership of 10% or more.

(b) The applicant or the person for whom a license or [registration] certificate is requested shall cooperate with the ~~licensing authority or~~ Department and shall assist in its investigation.

§ 901.28. Inspection of premises.

(a) Licensed premises, or premises relating to or being used for activities conducted under the act and this part by a licensed [club] eligible organization, registered manufacturer or licensed distributor shall be open to inspection by the [county,] licensing authority and the Department or their authorized representatives [and other law enforcement officials,] WITH OR WITHOUT PRIOR NOTICE, but the inspection shall:

* * *

(2) Take place [at times] only when a reasonable belief exists that a violation of the act or this part [exist] has occurred, is occurring or will occur.

(3) Be limited to the inspection of matters, areas and records associated with games of chance to insure compliance with the act and this part.

(b) The Department [reserves] ~~and the licensing authority,~~ ~~or their~~ OR ITS authorized representatives, reserve the right to enter and make [the] annual inspections [annually].

§ 901.30. Prohibited practices, contracts, gifts[,] and the like.

* * *

(b) A manufacturer, distributor or representative thereof may not sell to or solicit from a person an order for a [small] game of chance contingent upon that person or another purchasing or ordering some other [small] game of chance.

(c) [Prices charged by manufacturers, distributors and clubs for goods and services may not be fixed by agreement. A manufacturer, distributor or club, by express or implied agreement with another manufacturer, distributor or club, may not fix the price at which a small games of chance prize or another item used in connection with the small games of chance activities shall be sold, or for which services in connection therewith shall be rendered. The price of these items in the

competitive market place shall be established by each manufacturer, distributor or club for the products and services offered by each and may not be established, directly or indirectly, in concert with one another.] A manufacturer, distributor or licensed eligible organization may not fix by express or implied agreement with another manufacturer, distributor, eligible organization or any other person, the prices TO BE charged TO OTHER MANUFACTURERS, DISTRIBUTORS OR ELIGIBLE ORGANIZATIONS IN THE COMPETITIVE MARKET PLACE for games of chance or goods, prizes or services sold or rendered in connection with games of chance. NOTHING IN THIS SUBSECTION IS INTENDED TO PROHIBIT INDIVIDUAL MANUFACTURERS, DISTRIBUTORS AND ELIGIBLE ORGANIZATIONS FROM NEGOTIATING FOR THE PRICE TO BE PAID FOR GOODS, PRIZES OR SERVICES SOLD OR RENDERED IN CONNECTION WITH GAMES OF CHANCE.

§ 901.31. Examination of records.

[(a) The] In addition to the examination of records authorized during an inspection of the premises, the Department ~~or [county] licensing authority~~ is authorized to examine the reports, books, accounts and records, and the inventory RELATED TO GAMES OF CHANCE of [small games of chance of] a licensed distributor, registered manufacturer, [their representative or clubs] licensed eligible organization or their representatives. Every [person] manufacturer, distributor or eligible

organization is directed and required to give to the Department[,] ~~or~~ [county] licensing authority, or their ITS authorized representatives the means, facilities and opportunity for the examinations.

[(b) The district attorney may require licensed clubs, manufacturers and distributors or their representatives, to produce the books, accounts and records relating to small games of chance to determine whether a license should be revoked, suspended or renewal thereof be denied.

(c) Licensees and registrants, upon a reasonable request, shall also produce the books, accounts and records relating to small games of chance to other law enforcement officials.]

§ 901.32. Ownership of [small] games of chance.

[A small game of chance play or ticket is owned by the physical possessor of the ticket] The physical possessor of a game of chance play or ticket IN A GAME is the owner of the play or ticket CHANCE until a name is imprinted or placed upon [the play or ticket] it. When a name is placed upon the ~~play or ticket~~ CHANCE, the person whose name appears on the play or ticket CHANCE is the owner and is entitled to a prize attributable to it [and is the owner of the play or ticket].

§ 901.34. Disputes.

If a dispute occurs about whether [the] a play or ticket CHANCE is a winning ~~play or ticket~~ CHANCE and the dispute cannot

be resolved through normal verification procedures or other appropriate means the [club] licensed eligible organization may retain the ~~play or ticket~~ CHANCE and replace it with an equivalent ~~play or ticket~~ CHANCE in a like game ~~of chance~~. This is the exclusive remedy of the owner of the ~~play or ticket~~ CHANCE. Detailed records regarding the dispute, the reasons for the dispute and the ~~play or ticket~~ CHANCE shall be maintained by the [club] eligible organization for a minimum of 2 years from the date the dispute arose.

§ 901.35. Termination of [small] games of chance.

[The club] A licensed eligible organization may announce a termination date at which point no further ~~plays or tickets~~ CHANCES may be sold, and a date by which all claims or prizes [will] shall be made. This date may not be less than 30 days after the last date for play of the game being terminated.

§ 901.36. Federal withholding and reporting requirements.

A licensed [club] eligible organization is responsible for complying with Internal Revenue Service rules for reporting and withholding on gambling and lottery winnings.

§ 901.37. State withholding and reporting requirements.

A licensed [club] eligible organization is responsible for complying with Commonwealth rules for reporting and withholding on gambling and lottery winnings.

§ 901.38. Commonwealth resident designee.

A person [seeking registration or licensing] applying for a certificate or distributor's license under the act or this part is required to designate a person and location within this Commonwealth for purposes of service of process and the person shall agree to submit to the jurisdiction of the courts of the Commonwealth and law enforcement officials of the Commonwealth and its subdivisions.

* * *

~~§ 901.40. Prohibition of gambling facilities.~~

~~(a) A person, corporation, association, partnership or other business entity may not offer for rent or offer for use a building or other facility to be used exclusively for conducting games of chance.~~

~~(b) A licensed eligible organization may not lease, under any terms, a facility or building which is used exclusively for conducting games of chance.~~

~~§ 901.410. Operating days, non-operating days and operating weeks.~~

~~(a) An operating day or a non-operating day may not exceed 24 consecutive hours. An operating day or a non-operating day may not overlap with any other operating day or non-operating day.~~

~~(b) An operating day may extend from 1 calendar day to another so long as the eligible organization's normal activities~~

or business hours extend from 1 calendar day to another. For example, an eligible organization's operating day may begin at 9 a.m. and end at 3 a.m. the following calendar day (that is, 18 consecutive hours over two calendar days).

(c) If an eligible organization operates on a 24 hour-a-day basis, the eligible organization's operating day shall be any consecutive 24-hour period as chosen by the organization. For example, an eligible organization could choose its operating day to be from 9:01 a.m. to 9 a.m. the following calendar day or from 12:01 a.m. to midnight on the same calendar day.

(d) An operating week shall consist of 7 consecutive, reoccurring operating or non-operating days.

(e) An eligible organization shall choose its operating day and week and report them on its license application.

(f) A licensed eligible organization may change its operating day and week. The eligible organization shall amend its license before the new operating day or week becomes effective.

ADMINISTRATION

§ 901.51. Power and duties.

(a) The Department has the power and authority granted to it by the Legislature under the act, including the power and authority to do the following:

(1) Review the tax status of an applicant for [registration or licensure by the Department] a certificate or distributor license.

* * *

(4) Establish procedures by which manufacturers may apply for a certificate and distributors [of games of chance] may apply for [registration and] licensure.

* * *

(6) [Provide] Prescribe procedures for the suspension or revocation of ~~{distributor}~~ licenses [or manufacturer] and certificates for violations of the act or this title.

(7) Prescribe the form to be used by the licensing authority to license [clubs] eligible organizations.

(8) Conduct investigations prior to licensure and registration [and determine that] to ensure compliance with the requirements and prohibitions of the act and this part [are being complied with]. [Violations are grounds for revocation, suspension and denial of licensure or registration as provided elsewhere in this part.]

(9) Collect a fee for the issuance of a manufacturer registration certificate or distributor license.

(10) Initiate legal proceedings, in law or equity, before any court or tribunal, for purposes of administering or enforcing the provisions of the act or this part.

(11) Notify the Office of Attorney General of violations of the act and this part and request the Attorney General to initiate legal proceedings, criminal or civil, legal or equitable, to enforce the provisions of the act and this part.

(12) Do other matters necessary or desirable for the efficient operation and administration of [small] games of chance and to carry out the act and this part.

~~(b) [The] Although not limited to the following, the licensing authority has the power and duty to [do the following]:~~

~~(1) Issue special raffle permits.~~

~~(2) License [clubs] eligible organizations upon application to conduct and operate games of chance after the games have been approved in a municipal referendum.~~

~~(3) Send to the Department a [copy] list, on a semiannual basis, of the [names of the licensees to the Department] eligible organizations licensed to conduct games of chance.~~

~~(4) Collect a fee for the issuance of a games of chance license to eligible organizations. Establish and collect a fee not to exceed \$25 for the issuance of special raffle permits.~~

* * *

~~(7) Initiate legal proceedings, in law or equity, before any court or tribunal, for purposes of administering or enforcing the provisions of the act or this part.~~

[(c) The district attorney and other law enforcement officials have the power to do the following:

(1) Require licensees to produce books, accounts and records.

(2) Investigate alleged violations of the act or this part.

(3) File complaints against the alleged violator in the appropriate court.

(4) Prosecute complaints in the manner provided by law.]

§ 901.52. Administrative entity.

The Department will carry out its powers provided in the act or this part through the Bureau of Business Trust Fund Taxes-[Registration] Miscellaneous Tax Division. The administrative entity may be changed by notice published in the *Pennsylvania Bulletin*.

Subchapter B. LICENSING AND REGISTRATION

MANUFACTURER REGISTRATION

§ 901.101. Manufacturer registration and game approval required.

[A person may not sell or otherwise furnish games of chance to a distributor in this Commonwealth unless that person is currently registered by the Department under this chapter.]

(a) A person shall be registered with the Department and possess a manufacturer's registration certificate to sell or otherwise furnish games of chance to licensed distributors within the Commonwealth.

(b) A registered manufacturer may not sell a game of chance in this Commonwealth to a licensed distributor until the Department has approved it.

(c) If a registered manufacturer modifies an approved game of chance in any substantial way such that the nature or identity of the game is changed, the rules of the game change or the prizes or payouts change, the game of chance must be considered a new game of chance and submitted for approval.

§ 901.102. Registration and game approval forms.

(a) A person seeking a manufacturer registration [as a manufacturer] certificate shall submit [one copy of a] to the Department an application form [provided] as prescribed by the Department. [A registered manufacturer seeking to renew registration shall submit the same form but indicate in the appropriate box that the request is for renewal. The form shall be completed in full and will not be considered to be received until it has been completed in full.]

(b) A person seeking an approval of a game of chance shall submit ~~it's~~ THE APPLICATION ~~request~~ for approval to the Department WITH ITS MANUFACTURER'S REGISTRATION APPLICATION OR DURING THE REGISTRATION TERM on a form prescribed by the Department. THE INFORMATION TO BE PROVIDED ON THE FORM MUST INCLUDE:

- (1) THE NAME OF THE GAME.
- (2) THE GAME FORM NUMBER.
- (3) A DESCRIPTION OF THE GAME AND RULES FOR PLAY.
- (4) A PICTURE OR ILLUSTRATION OF THE GAME AND ITS COMPONENT PIECES.
- (5) THE GAME PRIZE STRUCTURE, PRIZES AND THEIR VALUE.
- (6) THE NUMBER OF CHANCES AND COST PER CHANCE.
- (7) THE PERCENTAGE OF PRIZES TO BE PAID IN RELATION TO THE GROSS SALE PROCEEDS FOR ALL CHANCES.

(c) The application forms referenced in subsections (a) and (b) shall be completed in full and will not be considered to be received until completed in full.

§ 901.103. Manufacturer registration application form contents.

An application for registration as a manufacturer of [small] games of chance shall contain at a minimum the following information:

* * *

(2) ~~The address of the manufacturer, including the complete business, mailing and legal address, if different.~~ THE MANUFACTURER'S BUSINESS, MAILING AND LEGAL ADDRESS AS WELL AS THE ADDRESS OF ALL LOCATIONS WHERE THE APPLICANT MANUFACTURES ITS GAMES. IT DOES NOT INCLUDE THE ADDRESS OF EACH PERSON FROM WHOM THE MANUFACTURER PURCHASES RAW MATERIALS, COMPONENTS OR SUBPARTS USED TO MANUFACTURE ITS GAMES.

* * *

(5) A complete list ~~or catalogue~~ of all [small] games of chance to be manufactured FOR SALE IN THE COMMONWEALTH DURING THE REGISTRATION TERM. THE LIST MUST CONTAIN INFORMATION AS PRESCRIBED ON THE MANUFACTURER REGISTRATION APPLICATION FORM.

* * *

(8) Pennsylvania tax information, [if otherwise required under Pennsylvania law] including:

* * *

(11) ~~The logo used by the manufacturer.~~ ALL LOGOS AND TRADE NAMES USED BY THE MANUFACTURER.

(12) A notarized affidavit for each dispensing machine sold or offered for sale in the Commonwealth indicating that the dispensing machine complies with the provisions of the act and this part. A form affidavit shall be available from the Department.

~~(13)~~—Other documents as identified in the application materials.

§ 901.103a. Change of application information.

A manufacturer shall report any changes to the information supplied in its application to the Department within 15 days of the change.

§ 901.104. Waiver of confidentiality.

[An applicant] By filing an application for the grant [or renewal] of a manufacturer registration [by the filing of an application insofar as it relates to the Department] certificate, the applicant waives confidentiality with respect to Commonwealth tax information in the possession of the Department, the Office of Attorney General or the Department of Labor and Industry regarding the applicant, regardless of the source of that information, and consents to the provision of that information to the Department by the Office of Attorney General or the Department of Labor and Industry.

§ 901.106. Registration term.

[The registration certificate is valid through the following March 31.] A registration term must begin BEGINS on April 1 and ends on March 31 of the succeeding year. A certificate issued during a registration term is only valid from the date of issuance to the end of the registration term.

§ 901.107. Annual [renewal] applications.

[A registered manufacturer shall renew its registration annually by March 31.] A registered manufacturer ~~should~~ SHALL file an application for a certificate NO LESS THAN 60 days prior to the expiration date of its existing certificate in order to ensure that the ~~manufacturer's registration with the Department is not interrupted~~ WILL ACT ON ITS APPLICATION PRIOR TO THE EXPIRATION OF ITS CURRENT CERTIFICATE.

§ 901.108. Registration number.

[A manufacturer will be assigned an identification number which shall be referred to as a registration number. The name and registration number of the manufacturer shall appear on all orders, documents and other paperwork, and the like, involved with or related to the sale, offer for sale or other provision of small games of chance.] The Department will assign a registration number and issue a certificate to each manufacturer that it approves for registration. The registered manufacturer shall place the registration number on all documents used in any transactions under the act or this part.

§ 901.109. [Registration certificate] Certificate.

The [registration] certificate issued [shall] must be ~~eonspiciously displayed~~ MAINTAINED on the MANUFACTURER'S premises ~~of the manufacturer~~ AND AVAILABLE FOR INSPECTION UPON REQUEST.

§ 901.110. Duplicate [registration] certificate.

If a [registration] certificate is defaced, destroyed or lost, the Department may issue a duplicate to the holder of the certificate upon submission of a duplicate [registration] application form. A \$100 fee will be charged for the duplicate [registration] certificate.

§ 901.111. Transfer.

[The transfer or assignment of a manufacturer's registration] A manufacturer is prohibited from transferring or assigning its certificate.

§ 901.112. [Prohibited sales] (Reserved).

[Manufactures of small games of chance are prohibited from selling or otherwise furnishing small games of chance to a person not licensed as a distributor unless the manufacturer is also a licensed distributor in which case the manufacturer may sell or otherwise provide small games of chance to licensed clubs.]

§ 901.113. Representatives of manufacturer.

[(a) A representative of a small games of chance manufacturer may sell to only a licensed distributor.

(b)] A representative of a manufacturer acts as an agent of the manufacturer in activities conducted under the manufacturer's registration certificate.

§ 901.114. Dissolutions, terminations, mergers and bankruptcies.

(a) [The] A manufacturer shall notify the Department in writing within 10 days of one or more of the following actions on the part of [a registered] the manufacturer:

* * *

(2) [A notice of the decision to dissolve is required if filing is not required.

(3)] The filing of a petition in bankruptcy or receivership by the manufacturer.

[(4)] (3) * * *

[(5)] (4) * * *

(b) A notice of the decision to dissolve is required even if filing is not required.

§ 901.117. Denial [of application, revocation, suspension or refusal to renew manufacturer's registration], ~~suspension~~ NOTICE OF VIOLATION and revocation.

(a) Manufacturer registration certificate. The Department [has the power to deny the application or suspend, revoke or refuse to renew the registration of a manufacturer,] may deny an application for a certificate, ~~or suspend~~ ISSUE A NOTICE OF VIOLATION or revoke a certificate if the manufacturer or a person required to be identified in the application form commits one or more of the following acts:

* * *

(2) Has failed to comply with or engaged in an activity prohibited by the act or this part.

* * *

(4) Has been convicted of, forfeited bond upon a charge of or pleaded guilty or nolo contendere to one of the following:

* * *

(vi) A crime, whether a felony or a misdemeanor, involving a gambling activity or a felony involving[,] moral turpitude.

* * *

(5) Has refused to permit an inspection of its records or premises under one of the following:

(i) Section 901.28 (relating to inspection of premises) or 901.31 (relating to examination of records).

* * *

(9) Sells or offers for sale in this Commonwealth a game of chance that has not been approved by the Department as provided for in this part.

(b) Game of chance approval. The Department may deny an application for a game of chance approval. THE DEPARTMENT and may ~~suspend~~ ISSUE A NOTICE OF VIOLATION FOR or revoke an approved game of chance if the game of chance fails to meet the requirements of the act or this part. THE DEPARTMENT MAY REVOKE

ITS APPROVAL OF A GAME IF THE DEPARTMENT DETERMINES THAT THE APPROVAL WAS ISSUED IN ERROR.

(c) Suspensions. NOTICE OF VIOLATION.

(1) A suspension of a certificate or a game of chance approval is issued for violations enumerated in subsection (a) or (b), as applicable, that have not substantially harmed the public and can be timely remedied. A NOTICE OF VIOLATION IS ISSUED TO NOTIFY A MANUFACTURER OF A VIOLATION OF THE ACT OR THIS PART AND TO PROVIDE THE MANUFACTURER WITH AN OPPORTUNITY TO REMEDY THE VIOLATION. A MANUFACTURER RETAINS THE PRIVILEGES CONFERRED ON IT BY ITS CERTIFICATE OR GAME APPROVAL DURING THE NOTICE PERIOD AND MAY CONTINUE TO SELL GAMES OF CHANCE IN THE COMMONWEALTH.

(2) A suspension THE TIME PERIOD THAT THE DEPARTMENT MAY GRANT TO A MANUFACTURER TO REMEDY A VIOLATION may not exceed a period of 30 days, unless the manufacturer requests an extension, in writing, and the Department approves the extension. AN EXTENSION MAY NOT EXCEED 30 ADDITIONAL DAYS.

(3) The Department will lift a suspension when the manufacturer has demonstrated compliance. THE DEPARTMENT WILL PROVIDE THE MANUFACTURER A NOTICE OF COMPLIANCE WITHIN 5 DAYS AFTER THE MANUFACTURER DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT THE VIOLATION HAS BEEN REMEDIED.

(4) If the Department determines that the manufacturer is still in violation under subsections (a) or (b), as applicable, HAS NOT REMEDIED THE VIOLATION IDENTIFIED IN THE NOTICE by the end of the suspension NOTICE OR EXTENSION period, the Department will revoke the certificate or game approval as applicable.

(5) There is no right to appeal a suspension.
NOTICE OF VIOLATION OR A DENIAL OF AN EXTENSION.

(d) Notice.

(1) The Department will issue a written notice NOTIFY A MANUFACTURER IN WRITING of a denial, suspension, lifting of suspension VIOLATION or revocation. The notice will provide:

- (i) The issue date of the notice.
- (ii) The action taken by the Department.
- (iii) The reason for the action.
- (iv) The manufacturer's appeal rights.

(2) The Department will serve the notice by certified or first-class mail.

(3) The Department will mail the notice to the manufacturer's Commonwealth resident designee AND THE MANUFACTURER'S PRIMARY BUSINESS ADDRESS LISTED ON THE MANUFACTURER'S APPLICATION.

§ 901.117a. Registration following revocation.

Unless otherwise provided by the act or this part:

(1) A manufacturer whose certificate is revoked is ineligible to apply for and receive another certificate for the remaining registration term or 6 months, whichever is longer.

(2) For a second revocation, the manufacturer is ineligible to apply for and receive another certificate for the remaining registration term as well as the following registration term.

(2) For a third and subsequent revocation, the manufacturer is ineligible to apply for and receive another certificate for 30 months.

* * *

§ 901.119. Raffle, daily drawing and weekly drawing ticket manufacturers.

This section [does] and §§ 901.101-901.118 do not apply to the manufacturers [of] who only produce and sell raffle, daily drawing and weekly drawing tickets.

DISTRIBUTOR LICENSING

§ 901.131. Distributor license requirement.

[A person may not sell, offer for sale or otherwise furnish small games of chance to licensed clubs in this Commonwealth unless the person is currently licensed by the Department under this section and §§ 901.132-901.153.] A person shall be licensed by the Department and possess a license to sell, offer

for sale or otherwise furnish games of chance to licensed eligible organizations in this Commonwealth.

§ 901.132. License application form.

[A person seeking licensure as a distributor shall submit one copy of a form prescribed by the Department. A licensed distributor seeking to renew a license shall submit the same form but indicate in the appropriate block that it is a renewal request.] For a distributor to obtain a license to sell games of chance in this Commonwealth, the distributor shall submit a license application to the Department in the form prescribed by the Department. The application form shall be completed in full and will not be considered to be received until it has been completed in full.

§ 901.133. Distributor license application form contents.

The application form shall include the following:

* * *

(5) A list of all types of [small] games of chance to be distributed.

* * *

§ 901.133a. Change of application information.

A distributor shall report any changes to the information supplied in its application to the Department within 15 days of the change.

§ 901.136. License term.

[The distributor license is valid through the following April 30.] A license term ~~must begin~~ BEGINS on June 1 and ends on May 31 of the succeeding year. A license issued during a license term is only valid from the date of issuance to the end of the license term.

§ 901.137. Annual [renewal] application.

[A licensed distributor shall renew its license annually by April 30.] A licensed distributor ~~should~~ SHALL file an application for a license NO LESS THAN 60 days prior to the expiration date of its existing license in order to ensure that ~~the distributor's licensure with the Department is not interrupted~~ WILL ACT ON ITS APPLICATION PRIOR TO THE EXPIRATION OF ITS EXISTING LICENSE.

§ 901.138. License number.

[Every distributor will be assigned an identification number which shall be referred to as a license number. The name and license number of the distributor shall appear on all orders, documents or other paperwork, and the like, involved with or related to the sale, offer for sale or other provision of small games of chance.] The Department will assign a license number and issue a license to each distributor it approves for licensure. A licensed distributor shall place its business name and license number on all documents used in any transaction under this part.

§ 901.139. License [certificate].

The license [certificate ~~shall~~] must be conspicuously displayed at all times at the place of business of the person licensed.

§ 901.140. Duplicate license.

Whenever a license [certificate] is defaced, destroyed or lost, the Department may issue a duplicate to the holder of the license upon submission of a duplicate License Application Form. A \$100 fee will be charged for the duplicate license [certificate].

§ 901.141. Transfer.

[The transfer or assignment of a distributor licensed] A licensed distributor is prohibited from transferring or assigning its license.

§ 901.142. [Representatives of distributors] Distributor's representative.

[(a) A representative of a small games of chance distributor shall sell only to licensed clubs.

(b)] A distributor's representative [of a distributor] acts as an agent of the licensee in activities conducted under the distributor's license [certificate].

§ 901.143. Restrictions on distributorship interest.

(a) [An] A licensed eligible organization [which is licensed to conduct games of chance] may not be a distributor.

(b) A person who is an officer, director, proprietor, consultant, [employee] employee or owner of a distributorship may not have a pecuniary interest in the operation of [small] games of chance.

(c) A distributor or person who has a financial interest in a distributorship may not be a lessor of premises, directly or indirectly, to a [club] licensed eligible organization.

§ 901.144. Restrictions of distributor [employees] employees.

(a) An [employee] employee of a distributorship may not be an [employee] employee, consultant or volunteer of a licensed [club] eligible organization unless the [employee] employee has first made a full written disclosure of the [employee's] employee's distributorship employment to the [club] eligible organization.

* * *

(c) An [employee] employee of a distributorship may not play games of chance at the site of a [club] licensed eligible organization if that [club] eligible organization is a customer of the distributorship.

(d) A Department [employee] employee assigned to the bureau responsible for administering the act or this part may not have an interest in a distributor licensed under the act or this part.

§ 901.146. Sales promotion.

A distributor may not use as a sales promotion a statement, demonstration or implication that a certain portion of a deal [of small games of chance tickets] contains more winners than other portions of the [set] deal or that a [set] game of chance may be played by a [club] licensed eligible organization in a particular manner that would give the organization an advantage in selling more [of the small games of chance] chances before having to pay out winners.

§ 901.147. Fixed prices.

A distributor may not enter into an express or implied agreement with another distributor to fix the price at which [small] games of chance may be sold, or for which services in connection therewith may be rendered. The price of these items in the competitive marketplace [shall] must be established by each distributor for the [small] games of chance and services offered by each and may not be directly or indirectly established in concert with one another.

§ 901.148. Dissolutions, terminations, mergers and bankruptcies.

(a) [The] A distributor ~~{shall}~~ will notify the Department, in writing, within 10 days of one or more of the following actions on the part of [a registered] the distributor:

* * *

§ 901.149. Change of address.

[The] A distributor ~~will~~ SHALL notify the Department, in writing, 10 days prior to a change of address.

§ 901.150. Changes in ownership or personnel.

The distributor shall make a written report to the Department of changes of responsible persons engaged in the business of the distributor. This report [shall] must also include a change in the management, ownership, directorship or equity ownership of 10% or more, or a change in the manufacturer's representatives. The report [shall] must be filed [on October 15] within 15 days of the addition or deletion.

§ 901.151. [Revocation, denial, suspension or rejection of renewal of distributor license] Denial, ~~suspension~~ NOTICE OF VIOLATION and revocation of licenses.

(a) Distributor license. The Department [has the power to deny the application or suspend, revoke or refuse to renew the license of a distributor under the following circumstances] may deny a license application, ~~or suspend~~ ISSUE A NOTICE OF VIOLATION or revoke a license if the distributor or a person required to be identified in the application form commits one of the following acts:

* * *

(2) Has failed to comply with or engaged in an activity prohibited by the act or this part.

* * *

(5) Has refused to permit an inspection of its records or premises under one of the following:

(i) Section 901.28 (relating to inspection of premises) or 901.31 (relating to examination of records).

* * *

(b) Suspensions. NOTICE OF VIOLATION.

(1) A suspension of a license is issued for violations enumerated in subsection (a) that have not substantially harmed the public and can be timely remedied. A NOTICE OF VIOLATION IS ISSUED TO NOTIFY A DISTRIBUTOR OF A VIOLATION OF THE ACT OR THIS PART AND TO PROVIDE THE DISTRIBUTOR WITH AN OPPORTUNITY TO REMEDY THE VIOLATION. A DISTRIBUTOR RETAINS THE PRIVILEGES CONFERRED ON IT BY ITS LICENSE DURING THE NOTICE PERIOD AND MAY CONTINUE TO SELL GAMES OF CHANCE IN THE COMMONWEALTH.

(2) A suspension THE TIME PERIOD THAT THE DEPARTMENT MAY GRANT TO A DISTRIBUTOR TO REMEDY A VIOLATION may not exceed 30 days, unless the distributor requests an extension, in writing, and the Department approves the extension. AN EXTENSION MAY NOT EXCEED 30 ADDITIONAL DAYS.

(3) The Department will lift a suspension when the distributor has demonstrated compliance. THE DEPARTMENT WILL PROVIDE THE DISTRIBUTOR A NOTICE OF COMPLIANCE WITHIN 5 DAYS AFTER THE DISTRIBUTOR DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT THE VIOLATION HAS BEEN REMEDIED.

(4) If the Department determines that the distributor is still in violation under subsection (a) HAS NOT REMEDIED THE VIOLATION IDENTIFIED IN THE NOTICE by the end of the suspension NOTICE OR EXTENSION period, the Department will revoke the license.

(5) There is no right to appeal a suspension. A NOTICE OF VIOLATION OR A DENIAL OF AN EXTENSION.

(c) Notice.

(1) The Department will issue a written notice NOTIFY A MANUFACTURER IN WRITING of a denial, suspension, lifting of suspension VIOLATION or revocation. The notice will provide:

(i) The issue date of the notice.

(ii) The action taken by the Department.

(iii) The reason for the action.

(iv) The distributor's appeal rights.

(2) The Department will serve the notice by certified or first-class mail.

(3) The Department will mail the notice to the distributor's Commonwealth resident designee AND THE

DISTRIBUTOR'S PRIMARY BUSINESS ADDRESS LISTED ON THE DISTRIBUTOR'S APPLICATION.

§ 901.151a. Licensing following revocation.

Unless otherwise provided by the act or this part:

(1) A distributor whose license is revoked is ineligible to apply for and receive another license for the remaining license term or 6 months, whichever is longer.

(2) For a second revocation, the distributor is ineligible to apply for and receive another license for the remaining license term as well as the following license term.

(3) For a third and subsequent revocation, the distributor is ineligible to apply for and receive another license for 30 months.

* * *

§ 901.153. Raffle, daily drawing and weekly drawing ticket distributors.

This section and §§ 901.131-901.152 do not apply to [the distribution of] distributors who only sell raffle, daily drawing and weekly drawing tickets.

BOARD PROCEDURES

§ 901.161. Jurisdiction and purpose.

The Board will receive and review petitions [to review Department] challenging the Department's decisions to deny [an initial or renewal application] an application for a

manufacturer registration [or licensure] certificate or game of chance approval or a distributor license. The Board will also receive and review petitions from [registrants or licensees who have been notified of the Department's intent to revoke registration or licensure] manufacturers or distributors challenging the Department's revocation of a manufacturer registration certificate, game of chance approval or a distributor license. The Board will provide petitioners with the opportunity for a hearing and will make recommendations to the Secretary regarding petitions.

* * *

§ 901.165. Board practice and procedure.

* * *

(g) Bond. [An applicant,] A registrant or licensee [whose application has been denied or] whose license or registration has been revoked[, suspended or not renewed] due to Commonwealth tax liabilities, and who has been notified of the [denial, nonrenewal or] revocation, shall file a bond in an amount of 120% of the tax and interest with the Department [pending the outcome of] in order for an appeal of [a decision of the Department with regard to registration or licensing] the revocation to stay the revocation [or suspension of the registration or license].

* * *

§ 901.168. Stay of appeal.

(a) Actions to [suspend or] revoke a registration [or], license or game approval will be stayed pending the decision of the Secretary when a petition has been filed with the Board. [, except when the registration or license is immediately suspended for a period not to exceed 30 days because, in the opinion of the Department, one or more of the following has occurred:

(1) The license or registration has been obtained by fraud, trickery, misrepresentation, concealment or through inadvertence or mistake.

(2) The licensee, registrant or other person required to be identified in the application has engaged in an act or practice that would operate as a fraud or deceit upon a person.

(3) The licensee or registrant has failed to comply with the act or this part, after having been previously notified by the Department or its authorized representatives or law enforcement personnel, that a violation had been or was being committed by the licensee, registrant or other person required to be identified on the application.

(4) The licensee or registrant has been convicted of, forfeited bond upon a charge of or pleaded guilty or nolo contendere to one of the following:

(i) Forgery.

(ii) Larceny.

(iii) Extortion.

(iv) Conspiracy to defraud.

(v) Willful failure to make required payments or reports to a governmental agency or filing false reports.

(vi) A crime, whether a felony or a misdemeanor, involving a gambling activity or a felony involving moral turpitude.

(vii) Other similar offenses.]

(b) During the pendency of the appeal, the certificate, game approval or license will be suspended. (SEE § 901.23A FOR THE EFFECT OF A SUSPENSION.)

[CLUB] ELIGIBLE ORGANIZATION LICENSING

§ 901.181. [Local rules] Reserved.

[The licensing authority of the counties of this Commonwealth may adopt local rules regulating club licensing that are not inconsistent with the act. If the licensing authority does not adopt rules, this part is binding.]

§ 901.182. ~~License requirements~~ RESERVED.

§ 901.183. ~~Filing~~ RESERVED.

§ 901.184. [Licensee] License fee RESERVED.

§ 901.185. [Annual renewal] License term and annual applications RESERVED.

§ 901.186. ~~Display~~ RESERVED.

§ 901.187. ~~Operation of games~~ RESERVED.

§ 901.188. ~~Location~~ RESERVED.

§ 901.189. ~~Transfer~~ RESERVED.

§ 901.190. ~~Joint license prohibition~~ RESERVED.

§ 901.191. License application form.

(a) THE DEPARTMENT SHALL PROSCRIBE THE LICENSE APPLICATION FORM FOR ELIGIBLE ORGANIZATIONS. LICENSING AUTHORITIES MAY OBTAIN THE FORM FROM THE DEPARTMENT.

(b) THE FORM IS AVAILABLE TO ELIGIBLE ORGANIZATIONS THROUGH THE LICENSING AUTHORITIES.

(c) The license application form shall contain, at a minimum, the following information:

* * *

(2) The type of [the] organization.

* * *

(5) The name of the municipality where the applicant will maintain its licensed premises.

(6) [The place of conduct for games of chance.] The eligible organization's licensed premises.

(7) The [dates and hours the club normally operates for its members] eligible organization's operating day and week.

* * *

(11) The names and addresses of persons who will be responsible for the operation of games of chance, including [club employes] eligible organization employees, bar personnel,

auxiliary group members and other persons who will obtain the games of chance and coordinate their use.

(12) A statement under oath in the form of an affidavit, affirmed by the executive officer or secretary of the [club] eligible organization, stating the following:

(i) A person 17 years of age or younger[, or in the case of a club holding a liquor license, 20 years of age or younger,] will not be permitted by the [club] eligible organization to operate or play games of chance.

* * *

(iii) The [club] eligible organization is the owner of the premises upon which the games of chance are played or, if it is not, the [club] eligible organization is not leasing the premises from the owner thereof under an oral agreement, nor is it leasing the premises from the owner thereof under a written agreement at a rental which is determined by the amount of receipts realized from the playing of games of chance or by the number of people attending, ~~excepting the lease of a facility~~ EXCEPT THAT AN ELIGIBLE ORGANIZATION MAY LEASE A LOCATION OR PREMISES for a banquet where a per head charge is applied in connection with the serving of a meal.

(13) A copy of a corporate applicant articles of incorporation and bylaws; or, if not a corporation, a copy of

bylaws and other documents which set out the organizational [structural] structure and purpose [of the organization].

(14) A copy of a nonprofit charitable applicant's Internal Revenue Service tax exemption letter if one has been obtained and a copy of other documents indicating the [club] eligible organization is a nonprofit charitable organization.

(15) The details and copies of the lease [or] __, rental or other arrangements[,] between the applicant and the owner of premises upon which the [gambling activity] games of chance will be conducted, if the premises are not owned by the [club] eligible organization.

(16) The names, addresses, dates of birth and the [social security] Social Security numbers of each paid [employee] employee, auxiliary group member or agent who will be involved with the activities for which the license is sought.

* * *

(18) [A] The type of license applied for and a list of all types of games of chance to be operated by the [club] eligible organization.

(19) A list of distributors of games of chance with whom the [club] eligible organization does business.

(20) A list of the eligible organization's auxiliary groups that will operate games of chance under the eligible organization's license.

~~§ 901.192. Denial [of application, revocation, suspension and refusal to renew club licenses]~~ suspension and revocation of an eligible organization license RESERVED.

~~§ 901.193. Fee payment~~ RESERVED.

~~§ 901.194. Change of personnel~~ RESERVED.

§ 901.195. Types of licenses.

Two types of licenses are available. An eligible organization may only hold one type of license at a time. The types of licenses are as follows:

(1) Games of chance license. A games of chance license authorizes the licensee to conduct games of chance as prescribed by the act and this part during the eligible organization's licensing term. A licensee is eligible to apply for special raffle permits.

(2) Limited occasion license. A limited occasion license authorizes the licensee to conduct games of chance on a limited basis as provided in § 901.196 (relating to limited occasion license requirements, limits and restrictions).

§ 901.196. Limited occasion license requirements, limits and restrictions.

(a) ~~Organizations~~ ONLY ORGANIZATIONS that do not own or lease a premises or do not have a specific location at which they conduct their normal business are only eligible for a limited occasion license.

(b) Limited occasion licensees are not eligible for the following:

(1) Special raffle permits.

(2) A games of chance license.

(c) Limited occasion licensees may conduct games of chance on no more than three occasions over a period of no more than 7 days during the license term.

(d) No more than two raffles may be conducted under a limited occasion license.

(e) The fee for a limited occasion license is \$10.

(f) The licensee shall provide 10 days prior written notice of its intent to conduct games of chance under its license to the licensing authority that issued its license.

§ 901.197. Change of application information.

An eligible organization shall report any changes to the information supplied in its license application to the licensing authority within 15 days of the change.

~~COUNTY LICENSING AUTHORITY PROCEDURES~~

§ 901.211. [Local rules] (Reserved).

[The licensing authority of the counties of this Commonwealth may adopt local rules regulating their procedures consistent with the act. If the licensing authority does not adopt rules, this section and §§ 901.212–901.219 are binding.]

§ 901.212. ~~General provisions~~ RESERVED.

~~§ 901.213. Actions with respect to [club] eligible organization licenses and applications RESERVED.~~

~~§ 901.214. Procedure for denial, suspension[,] or revocation [for refusal to renew club] of eligible organization licenses RESERVED.~~

~~§ 901.215. Appeals RESERVED.~~

~~§ 901.216. Representation before licensing authority RESERVED.~~

~~§ 901.217. Service RESERVED.~~

~~§ 901.218. Hearings RESERVED.~~

~~§ 901.219. Decisions RESERVED.~~

~~(a) Review. Upon the close of a hearing, the licensing authority shall review evidence and testimony presented along with relevant documents and render a written decision. The decision concerning the [club] eligible organization's license or application will be served upon the parties in the manner consistent with §§ 901.211-901.218 and this section.~~

~~* * *~~

Subchapter C. LOCAL OPTION

LOCAL OPTION REQUIREMENT AND LOCAL OPTION REPORTING

§ 901.307. Withdrawal of approval.

The referendum procedures contained in §§ 901.301-901.306, this section, 901.308 and 901.309 shall also be available to withdraw the approval of the issuance of [club] eligible

organization licenses within the municipality which was granted through a prior referendum.

§ 901.308. Reporting.

A county board of elections shall certify to the Department the question and the results no later than 40 days following the primary election on which a referendum question relating to [small] games of chance appears on the ballot.

§ 901.309. Public information.

Information supplied with regard to the approval or disapproval of [small] games of chance by local referendum shall be available from the county board of elections and the licensing authority.

Subchapter D. RECORDKEEPING

COUNTY RECORDS AND REPORTS

§ 901.401. ~~Application register~~ RESERVED.

§ 901.402. ~~Docket~~ RESERVED.

§ 901.403. ~~Special raffle permit docket~~ RESERVED.

§ 901.404. [Violation report] (Reserved).

[The licensing authority shall provide the Department with a list of licensed clubs, distributors, registered manufacturers and other persons who are under investigation, charged with or found guilty of violations of the act, the Bingo Law or other gambling related offenses under 18 Pa.C.S. (relating to the Crimes Code) or other comparable state or Federal law. This

list shall be provided in writing on or before November 15 of each year.]

§ 901.405. List of licensed [clubs] eligible organizations.

The licensing authority [shall] will send KEEP a list of licensees AND SEND THE LIST to the Department BIANNUALLY on or before January 15 and July 15 of each year. Upon request, the licensing authority [shall] will provide the Department with a copy of [the club's] an eligible organization's license. The list shall identify the [club] eligible organization, its full address [and], its license number, type of license and any special raffle permit serial number.

§ 901.406. ~~Other records and reports~~ RESERVED.

§ 901.407. List of municipalities.

(a) The licensing authority will keep and maintain an up-to-date list of those municipalities within the licensing authority's county that permit games of chance.

(b) The licensing authority will give a copy of the list to every eligible organization at the time of licensure.

(c) The licensing authority will make the list available to licensed eligible organizations who provide notice to the licensing authority of raffle sales within the licensing authority's county.

(d) Any time the list is updated, the licensing authority will submit a copy of the list to the Department within 30 days of the update.

MANUFACTURING RECORDS AND REPORTS

§ 901.421. Distributor license copy.

A manufacturer shall maintain ~~a copy of the valid~~ [small] A RECORD OF THE games of chance license NUMBER of each distributor to which it sells or otherwise furnishes games of chance.

§ 901.423. Annual records.

A registered manufacturer shall keep and maintain ~~permanent~~ annual records of the activities related to [small] games of chance FOR NO LESS THAN FIVE YEARS.

§ 901.425. Records.

A record shall include the following:

(1) Sales invoices. A manufacturer shall record every sale, return or other type of transfer of [small] games of chance by completing a sales invoice or credit memo. An invoice [shall] must be prenumbered at the time of purchase. The numbering [shall] must be consecutive, using [not less than] at least four digits. Manufacturers may use a computer generated numbering system if the same system is used for all sales and specific numbers cannot be input by use of a manual terminal or other device. The invoice [shall] must contain the following information:

* * *

(iv) The description of each item sold, including serial numbers for pull-tabs and form number. EACH GAME LISTED ON THE INVOICE THAT THE DEPARTMENT HAS APPROVED FOR SALE IN THE COMMONWEALTH MUST BE CLEARLY NOTED. The games may be listed in separate attachment identifying the form numbers and serial numbers.

* * *

DISTRIBUTOR RECORDS AND REPORTS

§ 901.441. License of purchaser.

A distributor shall keep a copy of the valid [small] games of chance license of each [club] eligible organization to which it sells or otherwise furnishes games of chance.

§ 901.443. Annual records.

A licensed distributor shall keep and maintain ~~permanent~~ annual records of its activities related to [small] games of chance FOR NO LESS THEN FIVE YEARS.

§ 901.445. Records.

A record shall include the following:

(1) Sales invoices. A distributor shall record every sale, return or other type of transfer of [small] games of chance by completing a standard sales invoice or credit memo. An invoice [shall] must be prenumbered at the time of purchase. The numbering [shall] must be consecutive using at least four

digits. The invoice [shall] must contain the following information:

* * *

(iii) The [purchasing club] name, address and license number of the licensed ELIGIBLE organization.

* * *

(vi) The gross amount of each sale to each [club] licensed eligible organization, including all discount terms and the total dollar amount of any discount.

* * *

[CLUB] LICENSED ELIGIBLE ORGANIZATION RECORDS

§ 901.461. Annual records.

[A club] An eligible organization licensed to conduct [small] games of chance shall keep and maintain ~~permanent~~ annual records of the activities related to [small] games of chance with separate totals of activity under the license for each [7-day period] operating week. ANNUAL RECORDS SHALL BE MAINTAINED FOR TWO YEARS.

§ 901.462. General records required.

A record shall include the following:

(1) The gross receipts from the conduct of [small] games of chance.

(2) The full details of the expenses related to the conduct of [small] games of chance.

(3) The total cost of the prizes paid out for [small] games of chance.

(4) The details as to how the proceeds from [small] games of chance were used or disbursed by the [club] eligible organization.

§ 901.464. Punchboard and pull-tab records.

Detailed annual records for the operation of punchboards and pull-tabs, [including] must include the following:

* * *

(7) The cost to the [club] eligible organization of the prizes paid, including cash and merchandise.

* * *

(9) A list of winners' names and addresses for prizes in excess of \$100.

§ 901.464a. Daily and weekly drawing records.

A licensed eligible organization shall maintain the following records and information with regard to each daily or weekly drawing:

(1) A THE type of drawing (daily or weekly).

(2) The operating day or operating week as applicable during which chances were sold and the date of the drawing.

(3) The list of entrants in the drawing.

(4) Each entrant's assigned or chosen number.

(5) The cost per chance.

(6) The proceeds from the sale of chances and the prize payout percentage.

(7) The winner's name.

(8) The prize paid to the winner.

(9) The winner's name and address for a prize over \$100.

(10) The winner's signed acknowledgment for receipt of the prize.

(11) A notation if the drawing is a carryover, and the amount of the jackpot being carried over to the next drawing.

§ 901.465. Cash over and short.

Cash over and short [shall] must be determined by:

(1) Subtracting actual cash from net receipts for [small] games of chance paying cash prizes.

(2) Subtracting actual cash from gross receipts for [small] games of chance which award merchandise prizes.

§ 901.466. Prize records.

A separate annual record shall be kept which may be easily cross-referenced to the other required records and which identifies the following:

* * *

(2) The total amount of prizes awarded [in each 7-day period] per operating week.

* * *

Subchapter E. PROHIBITED ACTIVITIES/PENALTIES

PROHIBITED ACTIVITIES

§ 901.501. Advertising.

(a) [A club] An eligible organization or other person may not advertise the prizes or their dollar value to be awarded in games of chance. [Prizes may be identified on a raffle ticket.]

(b) EXCEPTIONS.

(1) Raffle tickets may identify the raffle prizes.

(2) An eligible organization may advertise prizes and values thereof in periodic publications that are limited in their circulation to members of the eligible organization.

§ 901.502. Persons.

(a) A person having a pecuniary interest in a distributor or manufacturer or operator of games of chance may not have been:

* * *

(b) A person 17 years of age or younger[, or 20 years of age or younger in the case of a club holding a liquor license,] may not be permitted to operate or play [small] games of chance.

(c) A [club] licensed eligible organization may not permit a person who has been convicted of a felony [or a] in a Federal or State court within the past 5 years or has been convicted in a Federal or State court of a violation of the Bingo Law or the

act within the past 10 years to manage, set up, supervise or participate in the operation of games of chance.

§ 901.503. Compensation.

A [club] licensed eligible organization may not pay compensation to a person for conducting games of chance.

§ 901.504. Persons who may conduct games.

~~Persons may conduct [small] games of chance only if they are [club]~~ ONLY licensed eligible organizations OR AUXILIARY GROUP managers, officers, directors, bar personnel or bona fide members [of the club for at least 1 year] OF THE LICENSED ELIGIBLE ORGANIZATION MAY CONDUCT GAMES OF CHANCE.

§ 901.505. Promotional use of games of chance.

[Small games] Games of chance may not be used as a part of promotional or advertising methods.

§ 901.506. Credit play.

* * *

(e) A [club] licensed eligible organization may not permit the purchase of tickets by means of a deferred payment plan.

(f) [Clubs] Licensed eligible organizations may establish their own policies concerning acceptance of checks. A [club] licensed eligible organization is not required to accept a check.

(g) A [club] licensed eligible organization, manufacturer or distributor may not grant a non [diminimis] de minimis loan

or gift to a player, a [club] licensed eligible organization, distributor or manufacturer.

* * *

(i) On the specific date on which the check was written, a [club] licensed eligible organization may allow a player to buy back a check with cash or return a player's check to the player as part of a prize payout. [Clubs] Licensed eligible organizations may not unnecessarily delay the bank deposit of a check to accommodate either of these activities.

(j) A [club] licensed eligible organization may not lend or provide the use of gambling funds to a person as a loan.

§ 901.507. Prizes in excess of \$500.

[An] A licensed eligible organization may not award an individual prize [which] that exceeds \$500 [may not be awarded] except under a special raffle permit [raffle], a ~~carryover~~ daily drawing as provided in § 901.702(e)(1) (relating to prize limits) or a weekly drawing.

§ 901.508. Prizes in excess of \$5,000.

A licensed eligible organization may not award a prize [which] that causes the total prizes awarded for [the 7-day period] an operating week to exceed \$5,000 [may not be awarded] except under a special raffle permit, a ~~carryover~~ daily drawing as provided in § 901.702(e)(1) or (2) (relating to prize limits)

or a weekly drawing as provided in section 901.702(f)(2).

[Prizes awarded in raffles are not included in this amount.]

§ 901.509. Monthly raffle limit.

A licensed eligible organization may not award a raffle prize [which] that causes the total prizes awarded in raffles to exceed \$5,000 for the month [may not be awarded] except under a special raffle permit [raffle].

§ 901.510. [One club per location.] Use of licensed premises by more than one organization.

[A location or licensed premises may not be used by more than one licensed club for the conduct of games of chance.] A licensed eligible organization may not permit its premises to be used for games of chance by another licensed eligible organization at the same time that it is conducting games of chance on the premises. When a licensed eligible organization permits another licensed eligible organization to use its premises for purposes of games of chance, it shall cease the operation of its own games of chance during the period that the other licensed eligible organization is conducting its games on the premises.

§ 901.511. Other activities.

Other activities [which] that are grounds for revocation, ~~suspension~~ NOTICE OF VIOLATION, denial or termination of a [registration] certificate or license are also prohibited.

§ 901.512. Oral and written leases.

(a) An eligible organization may only lease a location or premises for the operation of games of chance under a written agreement.

(b) An eligible organization may not lease a location or premises for the operation of games of chance under a written agreement that provides for a rental price determined by the amount of receipts realized from the playing of games of chance or by the number of people attending, except that an eligible organization may lease a location or premises for a banquet where a per head charge is applied in connection with the serving of a meal.

§ 901.513. Gambling facilities prohibited.

(a) A person, corporation, association, partnership or other business entity may not offer for rent or offer for use a building or facility to be used exclusively for conducting of games of chance.

(b) A licensed eligible organization may not lease under any terms a facility or building that is used exclusively for conducting of games of chance.

PENALTIES

§ 901.531. [Summary offense] Eligible organizations.

[A club] An eligible organization violating the act is guilty of a summary offense, and upon conviction will be

sentenced to pay a fine not exceeding \$1,000[,] and shall, for a first offense forfeit [a] its license [and shall be ineligible for any license renewal for 30 months from the date of conviction] to conduct games of chance for the remainder of the license term or 6 months, whichever is longer; for a second offense, forfeit its license for the remainder of the license term and be ineligible to be licensed for the following license term; for a third or subsequent offense, forfeit its license, and be ineligible for a license renewal for 30 months thereafter.

§ 901.532. [Misdemeanor] Individuals.

A person who conducts, or who assists in the conduct of, games of chance in violation of the act is guilty of a summary offense for the first violation, a misdemeanor of the third degree ~~of~~ FOR a second violation and a misdemeanor of the first degree for a third or subsequent violation.

§ 901.533. Distributors and manufacturers.

A person who distributes games of chance without a license or in violation of the act or this part and a manufacturer of games of chance who delivers games of chance for sale or distribution in this Commonwealth who fails to obtain a [registration] certificate therefore THEREOF, is guilty of a misdemeanor of the first degree. A license or [registration]

certificate is not required for the manufacture or distribution of raffle, daily drawing or weekly drawing tickets.

§ 901.535. Contingent fees.

A person who distributes, manufactures or operates a [small] game of chance and who requires a payment equal to a percentage of the total winnings of a game for equipment furnished or to play a game commits a misdemeanor of the first degree.

Subchapter F. MANUFACTURING STANDARDS

PULL-TAB MANUFACTURING STANDARDS

§ 901.601. Uniform minimum quality standards.

(a) [Pull-tabs] Pull-tab games manufactured for sale or other distribution in this Commonwealth shall conform to the act, this part and N.A.G.R.A.'s ["Uniform Minimum Quality Standards For The Manufacture of Charity Game Tickets."] manufacturing standards for pull-tab games, AS AMENDED, to the extent consistent with this part. Copies of [these] N.A.G.R.A. standards are available from the Department.

* * *

(c) RANDOMIZATION.

(1) PULL-TABS IN A DEAL MUST BE DISTRIBUTED AND MIXED AMONG ALL OTHER PULL-TABS IN A DEAL SO AS TO ELIMINATE ANY PATTERN IN THE LOCATION OF WINNING AND LOSING PULL-TABS IN A DEAL OR BETWEEN DEALS.

(2) A DEAL MAY NOT BE SEGREGATED INTO SUB-DEALS OR PORTIONS SUCH THAT A PART OF A DEAL MAY BE DISTINGUISHED OR PLAYED SEPARATELY FROM THE REST OF THE DEAL.

§ 901.602. [Substitute flares] Flares.

[A flare may not be used on a pull-tab deal except those provided by the manufacturer unless the flare is made by the club and contains the information required under § 901.608 (relating to standards for flares)]. A flare provided by the manufacturer must accompany every deal. However, a licensed eligible organization may alter a flare as provided in § 901.731(b) (2) (relating to punchboard and pull-tab operation).

§ 901.608. Standards for flares.

[Except as provided by § 901.602 (relating to substitute flares), the flare identifying prizes available from the operation of a pull-tab deal shall be made only by the manufacturer. Winning numbers or symbols may not be altered by a club or distributor, and shall:]

(a) A pull-tab game flare must be made only by the manufacturer. Except as provided by § 901.731(b) (2) (relating to punchboard and pull-tab operation), a flare may not be altered after it leaves the manufacturer's possession and control.

(b) Except as otherwise provided in this part, a flare for a pull-tab game must comply with N.A.G.R.A. manufacturing standards for pull-tab game flares.

(c) A pull-tab game flare must:

(1) Be placed only upon the face, or on the top, of a dispenser used to dispense the pull-tabs ~~or must be printed on or made part of each pull tab in a deal.~~

(2) Clearly set out each of the prizes available and the number or symbol ~~which wins prizes~~ THAT WINS EACH PRIZE.

* * *

(d) The flare for any pull-tab game containing hold tickets must provide for a section on the flare, either on the front or back, that contains the hold ticket numbers or symbols and a corresponding space beside each number or symbol upon which the holder of each hold ticket shall sign his name.

(e) A SEAL CARD MAY SERVE AS A PULL-TAB GAME FLARE IF IT MEETS ALL THE REQUIREMENTS OF A FLARE.

PUNCHBOARD MANUFACTURING STANDARDS

§ 901.621. [Substitute flares] Flares.

[Flares may not be used on a punchboard except those provided by the manufacturer unless the flare is made by the club and contains the information required under § 901.627 (relating to standards for flares).] A flare provided by the manufacturer must accompany every punchboard. However, a

licensed eligible organization may alter a flare as provided in § 901.731(b)(2) (relating to punchboard and pull-tab operation).

§ 901.622. Standards for construction.

Punchboards sold for use in this Commonwealth [shall comply] must be in compliance with the following standards:

(1) General.

(i) A punchboard must have a face sheet that covers the punchboard receptacles.

(ii) The flare for the punchboard may be manufactured to also serve as the face sheet for the punchboard.

(iii) A punchboard, its punches and its flare must be assigned an identical serial number.

(iv) Each punchboard receptacle must contain an identical number of punches.

(2) Patterns. The punchboard [shall] must be manufactured with special care to eliminate patterns between punchboards, or portions of punchboards, from which the location or approximate location of winning punches may be determined. A manufacturer shall employ at least the following steps to ensure that no pattern exists:

(i) The form or permanent number sheets from which the individual punches shall be cut [shall] must be mixed prior to cutting.

(ii) After the [strips-straws-] punches have been crimped, the [strips shall] punches must be thoroughly mixed prior to insertion in punchboards.

* * *

[(2)] (3) * _____ * _____ *

[(3)] (4) * _____ * _____ *

[(4)] (5) * _____ * _____ *

[(5)] (6) * _____ * _____ *

* * *

§ 901.627. Standards for flares.

[The flare advertising prizes available from the operation of a punchboard shall be made only by the manufacturer. Winning numbers or symbols may not be altered by a club or distributor, and shall:]

(a) A punchboard flare must be made only by the manufacturer. Except as provided by § 901.731(b)(2) (relating to punchboard and pull-tab operation), a flare may not be altered after it leaves the manufacturer's possession and control.

(b) A punchboard flare must:

* * *

(2) Clearly set out each of the prizes available and the number or symbol ~~which wins prizes~~ THAT WINS EACH PRIZE.

* * *

(c) The flare for any punchboard containing hold tickets must provide for a section on the flare, either on the front or back, that contains the hold ticket numbers or symbols and a corresponding space beside each number or symbol upon which the holder of each hold ticket shall sign his name.

(d) A SEAL CARD MAY SERVE AS A PUNCHBOARD FLARE IF IT MEETS ALL THE REQUIREMENTS OF A FLARE.

GENERAL MANUFACTURING STANDARDS

§ 901.631. SUBCONTRACTING AND MANUFACTURER RESPONSIBILITY.

(a) A REGISTERED MANUFACTURER MAY SUBCONTRACT FOR THE MANUFACTURER OR PRODUCTION OF THE PARTS, PIECES, ACCESSORIES AND OTHER ITEMS THAT MAKE UP A COMPLETED GAME OF CHANCE.

(b) A SUBCONTRACTOR WHO ONLY MANUFACTURES OR PRODUCES PARTS, PIECES, ACCESSORIES AND OTHER ITEMS USED TO MANUFACTURE A COMPLETED GAME OF CHANCE IS NOT REQUIRED TO BE REGISTERED WITH THE DEPARTMENT.

(c) A REGISTERED MANUFACTURER THAT ASSEMBLES AND MARKETS A COMPLETED GAME OF CHANCE IS RESPONSIBLE FOR COMPLYING WITH ALL THE PROVISIONS AND REQUIREMENTS OF THIS PART IN ORDER TO SELL THE GAME OF CHANCE FOR USE IN THE COMMONWEALTH.

§ 901.632. PREDETERMINATION OF RULES, WINNING CHANCES AND PRIZES.

EXCEPT AS PROVIDED IN § 901.731 (b)(2) (RELATING TO PUNCHBOARD AND PULL-TAB OPERATION), A MANUFACTURER OF A PULL-TAB

GAME OR PUNCHBOARD MUST PREDETERMINE THE RULES, PRIZE STRUCTURE, PRIZES, PRIZE VALUES, WINNING PULL-TABS OR PUNCHES AND THE CORRESPONDING PRIZE FOR EACH PULL-TAB OR PUNCH DURING THE MANUFACTURING OF THE PULL-TAB GAME OR PUNCHBOARD. NO PERSON MAY ALTER A PULL-TAB GAME OR PUNCHBOARD MANUFACTURED BY A REGISTERED MANUFACTURER AND OFFERED FOR SALE AND USE WITHIN THE COMMONWEALTH.

§ 901.633. PROHIBITION AGAINST PARTICIPANT CONTROL OF WINNING CHANCES OR PRIZES.

A GAME OF CHANCE MAY NOT BE MANUFACTURED FOR SALE AND USE IN THIS COMMONWEALTH IN WHICH A PARTICIPANT WHO PURCHASES A CHANCE IN THE GAME CAN CONTROL, EFFECT OR CHOOSE THE WINNING CHANCE OR CHANCES OR THE CORRESPONDING PRIZE OR PRIZES.

Subchapter G. OPERATION OF GAMES

[CLUB] ELIGIBLE ORGANIZATION OPERATION OF GAMES

§ 901.701. Games of chance permitted.

(a) [Games] A licensed eligible organization may conduct games of chance [may be conducted] only for the purpose of raising funds for [legitimate club] public interest purposes as defined in the act or this part.

(b) [Proceeds shall be used] A licensed eligible organization shall use games of chance proceeds exclusively for [legitimate club] public interest purposes or for the purchase of games of chance permitted by the act or this part. FOR

PURPOSES OF THIS SUBSECTION THE TERM GAMES OF CHANCE INCLUDES MERCHANDISE PRIZES AWARDED IN A GAME OF CHANCE.

(c) A GAME OF CHANCE MAY NOT BE CONDUCTED IN THIS COMMONWEALTH IN WHICH A PARTICIPANT WHO PURCHASES A CHANCE IN THE GAME CAN CONTROL, EFFECT OR CHOOSE THE WINNING CHANCE OR CHANCES OR THE CORRESPONDING PRIZE OR PRIZES.

§ 901.701A. LICENSE REQUIRED.

(a) ELIGIBLE ORGANIZATIONS. AN ELIGIBLE ORGANIZATION MAY NOT CONDUCT OR OPERATE GAMES OF CHANCE UNLESS THE ELIGIBLE ORGANIZATION OBTAINS AND MAINTAINS A VALID LICENSE. AN ELIGIBLE ORGANIZATION MUST BE IN EXISTENCE AND FULFILLING ITS PURPOSES FOR 1 YEAR PRIOR TO THE DATE OF APPLICATION FOR A LICENSE.

(b) AUXILIARY GROUPS.

(1) AN AUXILIARY GROUP MAY CONDUCT OR OPERATE GAMES OF CHANCE UNDER ITS PARENT ORGANIZATION'S LICENSE. AN AUXILIARY GROUP MAY NOT BE LICENSED SEPARATELY. ANY AUXILIARY GROUP THAT CONDUCTS GAMES OF CHANCE MUST BE LISTED ON THE PARENT ORGANIZATION'S LICENSE APPLICATION.

(2) AN AUXILIARY GROUP THAT CONDUCTS GAMES OF CHANCE UNDER ITS PARENT ORGANIZATION'S LICENSE ACTS IN LIEU OF THE ELIGIBLE ORGANIZATION AND IS BOUND BY THE RESTRICTIONS AND LIMITATIONS OF THE ELIGIBLE ORGANIZATION AND ITS LICENSE UNDER THE ACT AND THIS PART. PRIZES FROM GAMES OF CHANCE CONDUCTED BY AN AUXILIARY GROUP MUST BE INCLUDED IN THE TOTAL PRIZES PAID OUT

BY THE LICENSED ELIGIBLE ORGANIZATION FOR PURPOSES OF DETERMINING THE LICENSED ELIGIBLE ORGANIZATION'S ADHERENCE TO THE PRIZE LIMITS UNDER THE ACT AND THIS PART.

(3) A LICENSING AUTHORITY MAY NOT CHARGE AN ADDITIONAL LICENSING FEE FOR AN AUXILIARY GROUP'S RIGHT TO CONDUCT GAMES OF CHANCE UNDER ITS PARENT ELIGIBLE ORGANIZATION'S LICENSE.

§ 901.701B. DISPLAY.

THE LICENSED ELIGIBLE ORGANIZATION SHALL AT ALL TIMES PUBLICLY DISPLAY ITS LICENSE AT THE SITE WHERE IT CONDUCTS GAMES OF CHANCE.

§ 901.701C. LOCATION OF GAMES.

(a) A LICENSE WILL BE VALID AT AND AUTHORIZE THE HOLDER TO CONDUCT GAMES OF CHANCE ON THE ELIGIBLE ORGANIZATION'S LICENSED PREMISES AS PROVIDED IN § 901.704 (RELATING TO LICENSED PREMISES).

(b) A LICENSED ELIGIBLE ORGANIZATION MAY CONDUCT GAMES OF CHANCE AT A LOCATION OFF ITS PREMISES WHEN SUCH GAMES OF CHANCE ARE PART OF A REOCCURRING, ANNUAL CARNIVAL, FAIR, PICNIC OR BANQUET HELD OR PARTICIPATED IN BY THAT ELIGIBLE ORGANIZATION. THE ORGANIZATION MUST NOTIFY, IN WRITING, THE DISTRICT ATTORNEY AND LICENSING AUTHORITY OF THE LOCATION, DATE AND TIMES OF SUCH EVENTS.

(c) A LICENSE ISSUED BY A LICENSING AUTHORITY IN ONE COUNTY WILL BE VALID FOR PURPOSES OF SELLING RAFFLE TICKETS IN MUNICIPALITIES OF ANOTHER COUNTY WHICH HAVE SPECIFICALLY APPROVED GAMES OF CHANCE BY AN AFFIRMATIVE VOTE IN A MUNICIPAL REFERENDUM. A LICENSED ELIGIBLE ORGANIZATION THAT PLANS TO SELL RAFFLE TICKETS IN A MUNICIPALITY LOCATED IN A COUNTY OTHER THAN THE COUNTY IN WHICH IT IS LICENSED MUST NOTIFY THAT COUNTY'S DISTRICT ATTORNEY AND LICENSING AUTHORITY AS TO THE LOCATION AND THE DATES THAT THE ORGANIZATION PLANS TO SELL RAFFLE TICKETS.

§ 901.702. Prize limits.

(a) Maximum individual prize limit. The maximum cash value ~~which~~ OF A PRIZE THAT may be awarded for a single chance IN A GAME OF CHANCE is \$500.

(b) Weekly limit. No more than \$5,000 in cash or merchandise may be awarded AS PRIZES IN GAMES OF CHANCE CONDUCTED by a [club in a 7-day period] licensed eligible organization during an operating week. [Prizes awarded in a raffle are not included in this amount.]

(c) Raffle limit. No more than \$5,000 in cash [for] or merchandise may be awarded AS PRIZES in raffles in a calendar month except under a special raffle permit [raffle].

(d) Special raffle permit [raffles]. A [club] licensed eligible organization may conduct a raffle and award a prize valued in excess of \$500 only if it has obtained a special

raffle permit. The total cash value of prizes awarded under [a] all special [permit raffle may be no more than \$25,000] raffle permits during a calendar year may be no more than \$100,000.

(e) Prize limit exceptions for daily drawings.

(1) A licensed eligible organization may award a prize in excess of the prize limitations in subsections (a) and (b) if the prize is the result of a carryover of a drawing when the following conditions apply:

(i) The winning number was not held by one of the eligible entrants in the drawing.

(ii) The carryover is not the result of the licensed eligible organization's failure to hold a drawing on an operating day during which chances for a daily drawing were sold.

(iii) The chances for the daily drawing were not sold for an amount in excess of \$1.

(iv) No eligible participant was sold more than one chance.

~~(2) A licensed eligible organization may award a prize in excess of the prize limitation in subsection (b) if the prize is the result of a daily drawing that is set up to pay out no less than 100% of the gross revenues from such drawing. The prizes are still subject to the prize limitation in subsection (a). The limitation in subsection (b) may be exceeded only by~~

~~the amount of the daily drawing paying 100% of its gross revenues.~~ A PRIZE AWARDED IN A DAILY DRAWING THAT IS SET UP TO PAY OUT 100% OF THE GROSS REVENUES FROM THE DRAWING IS NOT INCLUDED AS A PRIZE FOR PURPOSES OF THE LIMITATION IN SUBSECTION (b).

(f) Prize limit exceptions for weekly drawings.

(1) The prize limitation in subsection (a) does not apply to weekly drawings. Weekly drawings are subject to the prize limitations in subsection (b).

~~(2) A licensed eligible organization may award a prize in excess of the prize limitation in subsection (b) if either:~~ A PRIZE AWARDED IN A WEEKLY DRAWING WILL NOT BE CONSIDERED A PRIZE FOR PURPOSES OF THE LIMITATION IN SUBSECTION (b) IF EITHER:

(i) The prize is the result of a carryover of a drawing when the winning number was not held by one of the eligible entrants in the drawing, and the following conditions apply:

(A) The carryover is not the result of the licensed eligible organization's failure to hold a weekly drawing at the end of the operating week during which chances were sold.

(B) The chances for the weekly drawing were not sold for an amount in excess of \$1.

(ii) The drawing is set up to pay out no less than 100% of the gross revenues from such drawing.

§ 901.703. Place of conduct.

[Games shall be conducted] A licensed eligible organization shall conduct games of chance only on the licensed eligible organization's licensed premises or when AT PLACES AS otherwise provided by the act and this part. [Raffle tickets may be sold within any county at other locations for drawings to be held once a month but raffle tickets may be sold] A licensed eligible organization may sell raffle tickets off the licensed premises but only in municipalities [which] that have approved games of chance through a valid referendum.

§ 901.704. [Club] Licensed premises.

(a) [The club shall own the premises upon which games of chance are played or shall lease or sublease the premises under a written agreement for a rental which is not determined by either the amount of receipts realized from the playing of games of chance or the number of people attending.

(b) A club may not lease the premises from a person who has been convicted of a felony or a violation of the act or the Bingo Law within 10 years of the date of the lessor's conviction.

(c) A club may not permit another club to use its premises for the conduct of games of chance.] An eligible organization's

licensed premises must be the location or premises owned or leased by the organization for use as its normal business or operating site. When the premises consists of more than one building, the organization shall designate which building will be used as the licensed premises for the operation of games of chance. If the organization wishes to conduct games of chance in a different building on its licensed premises, it shall notify, in writing, the district attorney and the licensing authority of the change in building site and the date and times that will be affected AT LEAST 10 DAYS PRIOR TO CONDUCTING GAMES AT THE DIFFERENT SITE.

(b) If an eligible organization does not own or lease a location or premises for use as its normal business or operating site, the organization may:

(1) With the written consent of another eligible organization, use another eligible organization's licensed premises for purposes of conducting games of chance so long as such use complies with § 901.510 and § 901.709 (relating to use of licensed premises by more than one organization; and eligible organizations per premises).

(2) Lease a location or premises on which to conduct games of chance as long as the lease does not violate § 901.513 (relating to gambling facilities).

(3) Make other arrangements to acquire a location or premises, consistent with the act and this part, on which to conduct games of chance.

(c) An eligible organization may not lease a location or premises as a licensed premises under an oral agreement. An eligible organization may lease a location or premises under a written agreement. The rental price may not be based on either the amount of receipts realized from the playing of games of chance or the number of people attending. An eligible organization may lease a facility for a banquet where a per head charge is applied in connection with the serving of a meal.

(d) An eligible organization may not lease a location or premises as a licensed premises from any person who has been convicted of a violation of the act or this part within 10 years of the date of the lessor's conviction.

§ 901.705. Purchase of games.

[Games] A licensed eligible organization shall [be purchased] purchase games of chance only from a licensed distributor. Raffles, daily drawings and weekly drawings are excluded from this requirement.

§ 901.706. Persons who may not operate or play [small] games of chance.

(a) A person 17 years of age or younger[, or 20 years of age or younger in the case of a club holding a liquor license,] may not be permitted to operate or play games of chance.

(b) A [club] licensed eligible organization may not permit a person who has been convicted of a felony in a State or Federal court within the past 5 years or a violation of the Bingo Law or the act[,] in a State or Federal court within the past 10 years to manage, set up, supervise or participate in the operation of games of chance.

§ 901.707. Compensation.

A [club] licensed eligible organization may not pay compensation to a person for conducting games of chance.

§ 901.708. Persons who may conduct games of chance.

[Games of chance may be conducted only by club] Only licensed eligible organizations OR AUXILIARY GROUP managers, officers, directors, bar personnel or ~~persons who~~ [have been] are bona fide members of the licensed [club for a least 1 year] eligible organization may conduct games of chance.

§ 901.709. One [club] eligible organization per [premise] premises.

[A location or licensed premises may not be used by more than one licensed club for conducting games of chance.] Only one licensed eligible organization may use a licensed premise to conduct games of chance. A licensed eligible organization may

allow another licensed eligible organization that does not own or lease a normal business premises to conduct games of chance on its premises. When an eligible organization uses the premises of another eligible organization, each eligible organization shall notify its respective licensing authority and district attorney in writing AT LEAST 10 DAYS PRIOR TO USING THE PREMISES.

§ 901.710. Other standards and requirements.

A [club] licensed eligible organization may not provide for play or purchase a [small] game of chance [which] that violates the act or this part.

§ 901.711. [Location for special permit raffles] (Reserved).

[A location or licensed premises may not be used by more than one licensed club for a special permit raffle in a calendar year.]

§ 901.712. RAFFLE, DAILY DRAWING AND WEEKLY DRAWING GAME RULES AND PRIZES.

AN ELIGIBLE ORGANIZATION MUST ESTABLISH THE RULES, PRIZE STRUCTURE, PRIZES, AND PRIZE VALUES IN A RAFFLE, DAILY DRAWING OR WEEKLY DRAWING PRIOR TO CONDUCTING THE RAFFLE, DAILY DRAWING OR WEEKLY DRAWING.

PUNCHBOARD AND PULL-TAB OPERATION PROCEDURES

§ 901.731. Punchboard and pull-tab operation.

(a) A person 17 years of age and younger[, or 20 years of age or younger in the case of a club holding a liquor license,] or a person visibly intoxicated or visibly under the influence of a [narcotic] controlled substance may not be allowed to play or sell a punchboard or pull-tab. It is the responsibility of the licensee and the responsibility of the person physically selling the punchboard or pull-tab deal to determine that an unauthorized person is not allowed to play or sell.

(b) Limitations on punchboards, pull-tabs and flares are as follows:

(1) A [club] licensed eligible organization may not permit the display or operation of a punchboard or pull-tab which may have been marked, defaced, tampered with or otherwise placed in a condition or operated in a manner which may deceive the public or which affects the chances of winning or losing upon the taking of a chance thereon.

(2) A licensed eligible organization may alter a flare to indicate that merchandise of equivalent value will substitute for a cash prize in a punchboard or pull-tab game.

* * *

(d) When [clubs] licensed eligible organizations purchase merchandise to be used as prizes on punchboards or pull-tab deals, the following information [shall] must be on the invoice provided by the seller:

* * *

(e) Limitations on pull-tab ~~dispensers~~ DISPENSING MACHINES are as follows:

* * *

(3) ~~A pull tab deal, or portion thereof, may be placed in or upon a pull tab container if the container holds tickets from another deal of pull tabs previously placed in or upon the container provided the pull tab deal, or portion thereof, is the same type of game with the same cost per play and prizes.~~ IF AN ENTIRE DEAL IS NOT PLACED IN A DISPENSING MACHINE AT ONE TIME, THE PULL-TABS IN THE DEAL SHALL BE PLACED IN THE DISPENSING MACHINE RANDOMLY AND IN A MANNER THAT DOES NOT COMPROMISE THE RANDOMIZATION OF THE TICKETS AS PACKAGED BY THE MANUFACTURER.

(4) A pull-tab deal once placed in or upon a pull-tab container out for play may not be removed from the container until the deal is permanently removed from public play, except as follows:

* * *

(ii) Pull-tabs removed by representatives of the county, or other law enforcement agency inspecting the [small] games of chance.

* * *

(5) DEALS SHALL NOT BE COMMINGLED.

* * *

§ 901.733. Control of prizes.

* * *

(c) The [club] licensed eligible organization shall display prizes so arranged that a customer can easily determine which prizes are available from a particular punchboard or pull-tab deal located upon the premises.

* * *

(e) A [club] licensed eligible organization may not offer to pay or actually pay cash in lieu of merchandise prizes which may be won.

(f) When a person wins a cash prize of over \$100 or wins a merchandise prize with a cash value of over \$100 from the play of a punchboard or pull-tab deal, the [club] licensed eligible organization shall make a record of the win. The record [shall] must disclose, at a minimum, the following information:

* * *

(g) A [club] licensed eligible organization shall keep the record of prizes awarded containing the information required in subsection (f), and of winning plays for a minimum of 2 years and shall display the record to a representative of the Department, county licensing authority, district attorney or law enforcement [officials] official upon demand. The [club] licensed eligible organization shall immediately mark or

perforate the winning pull-tab or punch so that the play cannot be presented again for payment.

§ 901.734. Punchboard and pull-tab inventory and retention.

[A punchboard and pull-tab deals purchased or otherwise obtained by a club shall be controlled and accounted for] A licensed eligible organization shall control and account for punchboard and pull-tab games as follows:

(1) A [club] licensed eligible organization shall closely monitor [punchboard] punchboards and pull-tab [deals] games purchased to assure that serial numbers are correctly entered in records and that each [deal] punchboard and pull-tab game purchased is recorded. The following control procedures apply:

(i) ~~At~~ BY the close of business on ~~December 31~~ ~~of each year~~ THE LAST DAY OF A LICENSED ELIGIBLE ORGANIZATION'S LICENSE TERM and before operating punchboards and pull-tab [deals] games after that date, the [club] licensed eligible organization shall take a physical inventory of punchboards and pull-tab [deals] games in play and awaiting play and record the following information separately for punchboards and pull-tab [deals] games:

* * *

(ii) At the time punchboards and pull-tab [deals] games are delivered, a [club] licensed eligible

organization shall assure that purchase invoice data is correct by comparing the actual serial numbers on each punchboard or pull-tab [deal] game to the numbers entered on the purchase invoices.

(iii) The purchases of punchboards or pull-tab [deals] games shall be recorded on a standard distributor's invoice, which includes space for the [club] licensed eligible organization to either attach a records entry label or enter the serial number and the date the [deal] punchboard or the pull-tab game was placed out for play. For punchboards or pull-tab [deals] games purchased, the [club] licensed eligible organization shall enter the data and the serial number in the space on the invoice, adjacent to the distributors entry, by either attaching a records entry label or by written entry.

(2) A punchboard or pull-tab [deal] game which is removed from play [together with the flare], unplayed punches or pull-tabs and winning punches or [plays] pull-tabs for prizes in excess of \$100[,] shall be retained by the [club] licensed eligible organization for at least 2 years following the last day of the month in which it was removed from play. The board, unplayed punches or pull-tabs, flare and winning punches or pull-tabs [shall] must remain available for inspection on the licensed premises.

(3) A punchboard or pull-tab [deal] game which is not placed out for public play or is not returned to the distributor from whom it was originally purchased [shall] must be retained on the licensed premises and made available for inspection for at least 2 years.

RAFFLES

§ 901.741. Prize limits.

A prize awarded may not have a value in excess of \$500 unless the raffle is conducted under a special raffle permit. [No] A licensed eligible organization may not award more than \$5,000 in cash or merchandise [may be awarded] in raffles in a calendar month [by a licensee].

§ 901.742. [Raffle number limited.] Drawing dates.

[Only one raffle may be held per calendar month including a special permit raffle.] Raffles may have one or more drawing dates EXCEPT A RAFFLE WHERE THE WINNER IS DETERMINED BY A DRAWING CONDUCTED BY THE DEPARTMENT UNDER THE STATE LOTTERY LAW, IN WHICH CASE THE DRAWING DATE WILL BE THE DATE OF THE APPLICABLE DEPARTMENT DRAWING. The drawing dates and times must be printed on the raffle tickets.

§ 901.743. Raffle tickets.

* * *

(b) Tickets for use in a raffle shall have a stub or other detachable section, be consecutively numbered and be accounted

for separately through the use of a log book showing to whom the tickets were given to be sold. The ticket stub or other detachable section of the ticket [shall] must bear a duplicate number corresponding to the numbers on the ticket and shall contain the purchaser's name, complete address and telephone number. Both parts [shall] must be imprinted with sequential numbers commencing with the number "1" through the maximum number of tickets to be sold; or in the case of a raffle where the winner is determined by a drawing of the Pennsylvania State Lottery CONDUCTED BY THE DEPARTMENT UNDER THE STATE LOTTERY LAW, the universe of eligible ticket numbers must correspond to the universe of eligible numbers in the State Lottery drawing.

* * *

(e) A ticket seller shall return the stubs or other detachable section of tickets sold to the [club] eligible organization. The [club] eligible organization shall then place each stub or other detachable section of ticket sold into a [receptable] receptacle out of which the winning tickets are to be drawn. The [receptable shall] receptacle must be designed so that each ticket placed therein has an equal opportunity with every other ticket to be the one withdrawn.

* * *

§ 901.744. Control of raffle prizes.

A [club] licensed eligible organization conducting a raffle in which real or personal property prizes are to be awarded shall have paid for in full or otherwise become the owner, without lien or interest of others, of the real or personal property prior to the drawing at which the winners of the prizes are to be determined.

§ 901.745. Printing requirements.

The following information shall be printed upon each raffle ticket sold:

(1) The [date] dates and [time] times of the [drawing] drawings.

(2) The location of the [drawing] drawings.

(3) The name of the [club] licensed eligible organization conducting the raffle.

(4) The [small] games of chance license number of the [club] licensed eligible organization.

(5) The special raffle permit number, if applicable.

* * *

§ 901.746. Prize awarding.

(a) [Raffle] A licensed eligible organization shall award raffle prizes [shall be awarded] on the [date] dates indicated on the raffle ticket unless the licensed eligible organization approves a different date [is approved by the club] and purchasers of tickets are notified in writing. The [date] dates

of the drawing may be extended only if one of the following occurs:

* * *

(c) If a raffle prize remains unclaimed by the winner for 90 days following the date of the raffle drawing and the [club] licensed eligible organization has made a good faith effort to contact the winner [via] by means of telephone and registered mail, for redemption of the prize, the [club] licensed eligible organization may retain the prize or award it in another [small] game of chance. A record of the attempted contact shall be maintained for a minimum of 2 years.

§ 901.748. Prohibition of joint raffles held by licensees.

[Raffles shall be conducted by individual clubs. Licensees] A licensed eligible organization may not join together with another [club] licensed eligible organization to conduct [raffles] a raffle.

§ 901.749. Open drawing.

* * *

(b) [Stubs or detachable sections drawn shall be immediately exhibited and shall be held open for inspection until the end of the occasion. Stubs or detachable sections shall be retained by the club under this part.] A licensed eligible organization shall immediately exhibit and hold open for inspection drawn raffle ticket stubs or detachable sections

until the end of the raffle. A licensed eligible organization shall retain the stubs or detachable sections as provided under the act or this part.

§ 901.751. Ticket sales.

[Raffle] A licensed eligible organization may only sell raffle tickets [may only be sold] in municipalities [which] that have approved the use of [small] games of chance [via] by means of a valid local referendum in accordance with the act.

[Raffle] A licensed eligible organization may sell raffle tickets [may be sold] at locations other than the [club] licensed eligible organization premises. A licensed eligible organization that plans to sell raffle tickets in a municipality located in a county other than the county in which it is licensed shall notify that county's district attorney and licensing authority in writing of the location and date that the eligible organization plans to sell raffle tickets AT LEAST 10 DAYS PRIOR TO SELLING RAFFLE TICKETS IN THAT COUNTY.

§ 901.752. Printer requirements.

An entity providing raffle tickets to a licensed [clubs] eligible organization shall attach a copy of the [club's small] organization's games of chance license to the raffle ticket purchase invoice or other document evidencing the sale. If the raffle pays a prize or prizes in excess of \$500 each, a copy of

the [club's] licensed eligible organization's special raffle permit shall also be attached.

§ 901.753. Means of determining winning numbers.

A licensed eligible organization may use the following means to determine the winners in a raffle:

(1) A random drawing of ticket stubs.

~~(2) By reference to a specified drawing of the Pennsylvania State Lottery. Both the date of the drawing and the State Lottery game that will be used must be identified on the raffle ticket.~~

~~(3) A passive selection device.~~

(3) BY REFERENCE TO A DRAWING OF THE DEPARTMENT UNDER THE STATE LOTTERY LAW. BOTH THE DATE AND THE NAME OF THE DRAWING THAT WILL BE USED MUST BE IDENTIFIED ON THE RAFFLE TICKET. THIS METHOD MAY ONLY BE USED IF THE LICENSED ELIGIBLE ORGANIZATION SELLS ENOUGH TICKETS EQUAL TO THE UNIVERSE OF POSSIBLE WINNING NUMBERS IN THE DEPARTMENT DRAWING. IF INSUFFICIENT TICKETS ARE SOLD, AN ALTERNATE MEANS OF DETERMINING THE WINNING NUMBER MUST BE USED.

[LOTTERIES]

§ 901.761. Reserved.

§ 901.762. Reserved.

§ 901.763. Reserved.

§ 901.764. Reserved.

- § 901.765. Reserved.
- § 901.766. Reserved.
- § 901.767. Reserved.
- § 901.768. Reserved.
- § 901.769. Reserved.
- § 901.770. Reserved.
- § 901.771. Reserved.
- § 901.772. Reserved.
- § 901.773. Reserved.
- § 901.774. Reserved.
- § 901.775. Reserved.
- § 901.776. Reserved.
- § 901.777. Reserved.
- § 901.778. Reserved.

DAILY DRAWINGS

§ 901.781. Daily drawing procedures.

(a) A licensed eligible organization may sell chances for and hold only one daily drawing during each operating day. Bona A BONA fide members may purchase A chances in a daily drawing only during the operating day on which the drawing will be held.

(b) Daily drawing winners must be determined by random drawing. Daily drawing winners may be determined with the aid of a passive selection device or by reference to drawings conducted by the Department under the State Lottery Law.

(c) A daily drawing must take place on the eligible organization's licensed premises and be conducted in plain view.

(d) A daily drawing must begin and end on the same operating day. An eligible organization may conduct no more than 7 daily drawings during an operating week.

(e) A licensed eligible organization may not sell chances for or conduct a daily drawing during a period when weekly drawing chances are being sold or a weekly drawing is taking place.

(f) Immediately prior to each daily drawing, the eligible organization shall announce the prize amount for the drawing.

(g) The name of a daily drawing prize winner or the fact that a winner was not selected must be prominently displayed on the licensed premises for at least 7 days after the drawing date. If a winner does not claim a prize within 7 days of the drawing, the eligible organization shall notify the winner of the prize and the requirements for claiming the prize. SEE SECTION 901.784 (RELATING TO CLAIMING PRIZES).

§ 901.782. Daily drawing chances.

(a) Only a bona fide member of an eligible organization may purchase a chance in a daily drawing.

(b) A licensed eligible organization shall sell a chance in a daily drawing only to a bona fide member.

(c) A chance in a daily drawing may not be sold to or purchased by one bona fide member for the benefit of another bona fide member.

(d) A licensed eligible organization may not sell a chance in a daily drawing for more than \$1.

(e) A licensed eligible organization may sell no more than one chance per daily drawing to each of its bona fide members.

(f) A chance in a daily drawing may be sold and purchased only on the eligible organization's licensed premises.

§ 901.783. Posting rules.

(a) An eligible organization shall prominently display the rules for each daily drawing in the area where the chances for the drawing are sold.

(b) At a minimum, the posted rules must include:

(1) The cost of the chance.

(2) The manner of selecting the winner.

(3) The time during which chances may be purchased.

(4) The time of the drawing.

(5) The payout percentage.

(6) Whether the drawing is a carryover drawing and the amount of the carryover jackpot.

(7) The requirements and time limits for claiming prizes as provided for in § 901.784 (relating to claiming prizes).

§ 901.784. Claiming prizes.

(a) The winner of a daily drawing need not be present at the time of the drawing to claim the prize.

(b) An eligible organization may not impose a penalty or limit the amount of a prize based upon a winning member's nonattendance at the time of the drawing.

(c) Only the daily drawing winner may claim the daily drawing prize.

(d) A daily drawing winner shall claim the prize in person and sign for receipt of the prize.

(e) A prize winner shall claim the prize within 30 days from the date of the drawing.

§ 901.785. Invalid State Lottery drawing.

A drawing of the State Lottery that is invalidated must also result in an invalid drawing in a licensed eligible organization's daily drawing which is tied to the State Lottery drawing.

§ 901.786. Unclaimed prize money.

A daily drawing prize that remains unclaimed more than 30 days after the drawing shall be retained by the eligible organization for public interest purposes.

WEEKLY DRAWINGS

§ 901.791. Weekly drawing procedures.

(a) A licensed eligible organization may sell chances for and hold only one weekly drawing during an operating week. Bona fide members may purchase chances in a weekly drawing only during the operating week in which the drawing will be held. The drawing must be held at the end of the operating week.

(b) Weekly drawing winners must be determined by random drawing. Weekly drawing winners may be determined with the aid of a passive selection device or with reference to drawings conducted by the Department under the State Lottery Law.

(c) A weekly drawing must take place on the eligible organization's licensed premises and be conducted in plain view.

(d) A licensed eligible organization may not sell chances for or conduct a weekly drawing during a period when daily drawing chances are being sold or a daily drawing is taking place.

(e) Immediately prior to each weekly drawing the eligible organization shall announce the prize amount for the drawing.

(f) ~~Notice of weekly drawing winners~~ NOTICE OF WEEKLY DRAWING WINNERS. The name of a weekly drawing prize winner or the fact that a winner was not selected must be prominently displayed on the licensed premises for at least 7 days after the drawing date. If a winner does not claim a prize within 7 days of the drawing, the eligible organization shall notify the

winner of the prize and the requirements for claiming the prize.

SEE SECTION 901.784 (RELATING TO CLAIMING PRIZES).

§ 901.792. Weekly drawing chances.

(a) Only a bona fide member of an eligible organization may purchase chances in a weekly drawing.

(b) A licensed eligible organization shall sell chances in a weekly drawing only to a bona fide member.

(c) A chance or chances in a weekly drawing may not be sold to or purchased by one bona fide member for the benefit of another bona fide member.

(d) A licensed eligible organization may not sell chances in a weekly drawing for more than \$1 each.

(e) Chances in a weekly drawing may be sold and purchased only on the eligible organization's licensed premises.

§ 901.793. Posting rules.

(a) An eligible organization shall prominently display the rules for each weekly drawing in the area where the chances for the drawing are sold.

(b) At a minimum, the posted rules must include:

(1) The cost of the chance.

(2) The manner of selecting the winner.

(3) The time during which chances may be purchased.

(4) The time of the drawing.

(5) The payout percentage.

(6) Whether the drawing is a carryover drawing and the amount of the carryover jackpot.

(7) The requirements and time limits for claiming prizes as provided for in § 901.794 (relating to claiming prizes).

§ 901.794. Claiming prizes.

(a) The winner of a weekly drawing need not be present at the time of the drawing to claim the prize.

(b) An eligible organization may not impose a penalty or limit the amount of a prize based upon a winning member's nonattendance at the time of the drawing.

(c) Only the weekly drawing winner may claim the weekly drawing prize.

(d) A weekly drawing winner shall claim the prize in person and sign for receipt of the prize.

(e) A prize shall be claimed within 30 days from the date of the drawing.

§ 901.795. Invalid State Lottery drawing.

A drawing of the State Lottery that is invalidated must also result in an invalid drawing in a licensed eligible organization's weekly drawing which is tied to the State Lottery drawing.

§ 901.796. Unclaimed prize money.

A licensed eligible organization shall retain for public interest purposes a weekly drawing prize that remains unclaimed more than 30 days after the drawing.

Subchapter H. SPECIAL RAFFLE PERMITS

SPECIAL RAFFLE PERMITS [AND SPECIAL PERMIT RAFFLES]

§ 901.801. [Price] Prize limit.

The total value of all special raffle permit prizes during a calendar year may be no more than [\$25,000 for each raffle] \$100,000.

§ 901.802. Raffle number limit.

Only one raffle may be conducted under each special raffle permit. [The club may hold only one raffle per month including a special permit raffle.]

§ 901.803. Special [permits] raffle permit limit.

A [club] licensed eligible organization is [not] eligible to receive [more than] two special raffle permits in a calendar year, except volunteer fire, ambulance and rescue organizations are eligible to receive three special raffle permits in a calendar year.

§ 901.804. Issuance of permits.

Special raffle permits shall be obtained from the licensing authority at least 30 days before the date on which ticket sales are to begin.

§ 901.805. Rule applicability.

The rules contained in this part apply to special raffle permits. To the extent they are inconsistent with §§ 901.801 - 901.804, this section and §§ 901.806 - 901.811, these provisions supersede those elsewhere in this part.

§ 901.806. Required permit.

A special raffle permit is required for each raffle in which a [club] licensed eligible organization proposes to award [a] an individual prize [or prizes] having a cash value in excess of \$500 [each] or total prizes having a cash value in excess of \$5,000.

§ 901.807. Fees RESERVED.

§ 901.808. Special raffle permit application.

The application for a special raffle permit [shall] must be made to the licensing authority. The application [shall] must include the following information:

(1) The [club] licensed eligible organization's name.

(2) The [club's small] licensed eligible organization's games of chance license number.

* * *

§ 901.810. Effective period.

A special raffle permit will remain effective from the date on which ticket sales begin until the earlier of the date of the drawing, the expiration date of their [small] games of chance

license held when the special raffle permit was issued or 6 months.

§ 901.811. [Location limits] (Reserved).

[A location or licensed premises may not be used by more than one licensed club for a special permit raffle in a calendar year.]

SUBCHAPTER I. ENFORCEMENT

§ 901.901. Criminal complaints.

The district attorney of each county AND OTHER LAW ENFORCEMENT OFFICIALS investigates criminal violations of the act. Complaints for criminal violations of the act are initiated as provided by law for criminal complaints and actions.

§ 901.902. Requests for information on criminal complaints, investigations and convictions.

The Department and licensing authority may request information on a complaint, investigation, or conviction involving a manufacturer, distributor or eligible organization or a responsible person or member of the organization for purposes of initiating administrative action against the manufacturer, distributor eligible organization.

§ 901.903. Notice of eligible organization violation.

A person may notify the licensing authority of a licensed eligible organization's violation of the act or this part. The

~~notice must be given to the licensing authority that issued the eligible organization's license.~~

~~§ 901.904. Notice of manufacturer or distributor violation.~~

~~A person may notify the Department of a registered manufacturer or licensed distributor's violation of the act or this part.~~

~~§ 901.905. Investigations of manufacturers, distributors and eligible organizations.~~

~~The licensing authority, or its designee, may investigate an eligible organization when it has reason to believe that a violation of the act or this part has occurred or is occurring.~~

~~§ 901.906. Investigations of a manufacturer or distributor.~~

~~The Department, or its designee, may investigate a manufacturer or distributor when it has reason to believe that a violation of the act or this part has occurred or is occurring.~~

~~§ 901.907. Notice of investigations.~~

~~(a) The licensing authority and the Department may provide information and documentation regarding an investigation of a manufacturer, distributor or eligible organization to the district attorney or law enforcement official for purposes of criminal investigation and prosecution.~~

~~(b) The licensing authority may provide information and documentation to the Department about violations of the act or~~

~~this part by a manufacturer or distributor that it discovers as part of an investigation involving an eligible organization.~~

~~(e) The Department may provide information and documentation to a licensing authority about violations of the act or this part by an eligible organization that it discovers as part of an investigation involving a manufacturer or distributor.~~

~~§ 901.908. Information sharing.~~

~~The right of the Department, licensing authorities, district attorneys and law enforcement officials to transmit and share information for purposes of enforcing the act or this part may not be restricted by this section or this part.~~

01/05/06

**LOCAL OPTION SMALL GAMES OF CHANCE
61 PA CODE CHAPTER 901**

**DEPARTMENT OF REVENUE REGULATION
15-425**

COMMENT AND RESPONSE DOCUMENT

Department of Revenue Regulation # 15-425
LOCAL OPTION SMALL GAMES OF CHANCE
61 PA CODE CHAPTER 901

This is a list of organizations and interested parties from whom the Department of Revenue has received comments regarding the above-referenced regulation.

<u>ID #</u>	<u>Name/Address</u>
(1)	Robert E. Nyce, Executive Director Independent Regulatory Review Commission 14 th Floor 333 Market Street Harrisburg, PA 17101
(2)	Honorable Jane M. Earll, Chairwoman Senate Finance Committee Senate Box 203049 Harrisburg, PA 17120-3049
(3)	Mary B. Magnuson, Representative National Association of Fundraising Ticket Manufacturers (NAFTM) Energy Park Financial Center Suite 210 - 1360 Energy Park Drive St. Paul, Minnesota 55108
(4)	Elam M. Herr, Assistant Executive Director Pennsylvania State Association of Township Supervisors (PSATS) 4855 Woodland Drive Enola, PA 17025-1291

Department of Revenue Regulation # 15-425
Chapter 901.-Local Option Small Games of Chance
COMMENTS AND RESPONSES

Applicability.

1. Comment:

"The existing regulations include provisions that require licensing authorities that do not adopt rules related to the administration of small games of chance to comply with Chapter 901. Those provisions are being deleted. The Department is now providing that certain sections of Chapter 901 are '' . . . for the benefit of and suggested use by the licensing authorities.'' Section 319 of the Local Option Small Games of Chance Act (Act) (10 P. S. § 319) authorizes the Department to promulgate regulations on specific subject matters. Promulgating rules for licensing authorities is not one of the subject matters.

The Department explained the historical basis for recommending regulations for use by licensing authorities and acknowledged that it cannot enforce these regulations. Since the Department does not have the statutory authority to promulgate regulations for licensing authorities, we recommend that those provisions be deleted from this proposed rulemaking and the rest of Chapter 901 as well.

To provide guidance to licensing authorities, we suggest that the Department work with the licensing authorities to develop a model rule that addresses the provisions contained throughout the Chapter. This model rule could be distributed to the regulated community, and easily amended should the need arise."
(1)

Response:

The Department agrees with IRRC's recommendation and has removed provisions for licensing authorities from the regulation. To provide guidance to licensing authorities, the Department has developed "SGOC Licensing Authority Model Rules" for County Treasurers. Currently, the Department is working with the Solicitor for County Treasurers on a final version of the model rules that will be posted on the Department's website.

Enforcement.

2. **Comment:**

"The provisions contained in Subchapter I, relating to enforcement, pertain to the Department, licensing authorities and district attorneys. The Act does not grant enforcement authority to the Department. As currently written, Subchapter I reiterates Subsection 323(a) of the Act relating to the powers of the district attorney. The remainder of the Subchapter provides guidance on actions that 'may' be taken by the affected parties.

We question the need for including enforcement provisions in the regulation. The Department has acknowledged that the provisions contained in Subchapter I are designed for informative purposes. The purpose of a regulation is to place specific duties or obligations on an agency and the regulated community. Subchapter I does not perform this function and should be deleted.

If the Department believes the regulation should include enforcement provisions, we recommend that a section be added that simply references Section 323 of the Act." (1)

Another commentator voiced a concern on the enforcement issue: "In the proposed regulation, the enforcement provisions would be consolidated under Subchapter I-Enforcement. This change appears to eliminate local law enforcement officials from the investigative and enforcement provisions. We question why this was done. If a violation is discovered, must an individual go straight to the district attorney instead of the local law enforcement officials or local police department?"
(4)

Response:

The Department agrees with IRRC and is removing the subsection on enforcement in the final rulemaking. The intent of Subsection I was informational and will be published through Department informational systems and publications.

Subsection I was never intended to expand or reduce the authority of local law officials.

Suspension.

3. Comment:

"Sections 901.117, 901.151 and 901.214 relate to the denial, suspension or revocation of licenses. These all include the following provision: 'There is no right to appeal a suspension.' Section 901.168, relating to appeals, is being amended to delete the right to appeal a suspension. The Chair of the Senate Finance Committee submitted comments on behalf of the Senate Committee questioning the rationale of this policy. We agree and also question the reasonableness and economic impact of it. If a certificate or license is suspended, that entity could no longer conduct business until they remedy the situation, even if they disagree with the basis for the suspension. This would financially harm the holder of a certificate or license.

We understand, through our discussion with the Department, another option is available. Rather than suspending a manufacturer's or distributor's license, the Department could send a notice of violation, describing the infraction and providing a time limit for its correction. This is a more reasonable approach, and it should be included in the final-form regulation" (1)

"This section indicated that the suspension of a registration certificate is not appealable. Language in the rule that indicates a certificate is not a vested right cannot override the basic constitutional concept of due process. The suspension of a certificate will cause significant financial losses to a manufacturer; result in the ability to sell product in the Commonwealth; and may result in disciplinary action in other states where the manufacturer is licensed. Whether there is a pre-deprivation hearing or a post-deprivation hearing may be a matter for legal debate, but a rule proscribing ANY hearing deprives a manufacturer of basic property interests that are constitutionally protected." (3)

The same commentator also believes "§ 901.161 should be amended to include board jurisdiction for the review of a suspension of a manufacturer's certificate." (3)

Response:

The Department agrees with IRRC's recommendations and has revised the final-form regulation accordingly. This change also addresses the concerns from commentator (3).

Submittal of final-form regulation.

4. Comment:

"Our comments related to Applicability and Enforcement recommend the deletion of many of the sections contained in this proposed rulemaking and the remainder of Chapter 901 relating to licensing authorities and eligible organizations. If the Department decides to retain these sections, we have addressed concerns with the proposed language in these sections in the comments that follow." (1)

Response:

The Department agrees with IRRC and the final-form regulation is revised to remove regulations relating to matters within the licensing authority's jurisdiction. (See sections 901.21(b), 28, 31, 901.51(b), 185(b), 192, 193, 196, 212, 219, 401, 407, 467 and 807 of the "proposed" regulation which have been deleted or revised.)

Section 901.1. Definitions.—Consistency with the act; Clarity.

5. Comment:

"Fraternal organization," "license," "raffle" and "weekly drawing"

"These terms are inconsistent with the definitions found in Section 313 of the Act. For consistency, the final-form regulation should either include a citation to the Act for the definitions of these terms, or use the definitions of these terms found in the Act." (1)

"Veteran's organization" - The term 'home association' is included in this definition. This

term is unclear. Therefore, we recommend that this term be defined." (1)

Another commentator offered several enhanced definitions for the following terms: "dispensing machine," "flare," "hold ticket," manufacturer registration certificate or certificate", "pull-tab," and "seal card." (3)

Response:

"Fraternal organization" has been changed to be consistent with the act.

"License" - the term is consistent with the act, but it intentionally has a broader meaning in the regulation.

"Raffle" - no need to change. The definition is the same as in the act, with clarifications.

"Weekly drawings" - no need to change. The definition is the same as in the act, with clarifications. Substantive provisions in the act's definition have been removed from the regulation's definition and placed properly in the substantive regulation related to weekly drawings.

"Home association" - a new definition has been added as requested by IRRC.

"Dispensing machine" - a portion of commentator (3)'s proposed language has been incorporated into the definition.

"Flare" - in response to commentator (3), the Department has revised the definition in the final-form rulemaking. Additionally, Section 901.608 of the regulations addresses the substantive requirements for flares and addresses the commentator's concerns.

"Hold ticket" - the Department disagrees with the proposed change of commentator (3). It is the Department's position that only one prize can be awarded per chance. The term "prize" is intended to mean a predetermined, cash or merchandise prize for each winning chance. There may be multiple cash

denominations or multiple items of merchandise that make up "the prize", however, the Department uses the singular term "prize" to avoid any suggestion that progressive games are permitted in the Commonwealth.

"Manufacturer registration certificate or certificate" - the definition has been revised to reflect commentator (3)'s proposed changes.

"Pull-tab" - the definition has been revised to reflect commentator (3)'s proposed changes.

"Seal card" - the definition has been revised to reflect a portion of commentator (3)'s proposed changes. The remaining portion has been included under the substantive provisions related to pull-tab and punchboard manufacturing standards.

Section 901.23. Restriction of sales.-Need; Clarity.
Subsections (a), (b) and (c).

6. Comment:

"Subsection (a), relating to manufacturers, instructs applicants to register with the Department. Subsections (b) and (c), relating to distributors and eligible organizations, respectively, require them to obtain licenses, but do not explain where an applicant should apply. For consistency, the final-form regulation should add provisions to Subsections (b) and (c) that instruct applicants where to apply for licenses.

Additionally, Subsection (a) (3) requires manufacturers to indicate on sales invoices that the games of chance have been approved by the Department. Since only games of chance that have been approved by the Department can be legally sold in Pennsylvania, we question the need for this provision." (1)

Another commentator wrote that the sales invoice, Subsection (a) (3) "is confusing for two reasons. First, the specific requirements for sales invoices are mandated in § 901.425, so presumably, although not clear, the information required by this part is additional. Second, the language of this part is too broad. It seems to require that for each sales invoice the manufacturer list all games approved by

the Department for sale in Pennsylvania - which is lengthy, to say the least. Such a practice would make each invoice extremely long and nearly impossible to use for the tracking of the specific product sold pursuant to the invoice." (3)

Response:

In the first paragraph of IRRC's comment, the Department agrees with IRRC and revisions have been made to the final-form regulation.

The Department disagrees with IRRC's comments in the second paragraph because it misstates the law. A manufacturer can sell a game to a Pennsylvania distributor that has not been approved. However, a manufacturer cannot sell a game for resale in the Commonwealth. For this reason, the Department is requiring the manufacturer to indicate which games a distributor may sell in the Commonwealth.

The Department agrees with commentator (3)'s request. The requirement for sales invoices has been consolidated under § 901.425.

Section 901.28. Inspection of premises.-Reasonableness; Clarity.

7. Comment:

"Subsection (a) allows a licensing authority, the Department, or their authorized representative to conduct inspections of manufacturers, distributors and eligible organizations. We have two questions. First, who are 'authorized representatives' of the Department?

Second will the entity have advanced notice from the licensing authority, the Department or the Department's authorized representative when its premises will be inspected?" (1)

Response:

Section 901.28 has been revised to delete references to licensing authorities. It has also been revised to indicate that an inspection can take place with or without notice.

An authorized representative is a person who is acting on behalf of the Department, usually a Department employee.

Section 901.30. Prohibited Practices (c) Prices.

8. Comment:

"This proposed language needs clarification. We suggest separating manufacturers from distributors. Manufacturers should be prohibited (and are under federal law) from fixing prices among each other. Distributors should face similar restrictions. However, between a manufacturer and distributor there will be agreed upon pricing. Typically, the manufacturer will establish a price schedule and the distributor will attempt to negotiate off that schedule, depending on the volume of product purchased. Under the proposed language, it says (although probably unintentionally) that the manufacturer and distributor cannot agree with one another on the prices charges for games of chance or goods." (3)

Response:

The regulation is not intended to prohibit negotiation of prices. It is only intended to prohibit the fixing of prices. The Department believes the regulation is sufficiently clear, but has added clarification language in final rulemaking.

Section 901.31. Examination of records.—Reasonableness; Need; Clarity.

9. Comment:

"Section 901.28(a) (3) limits the inspection of premises to matters, areas and records associated with games of chance. Under Section 901.31, is the examination of records limited to reports, books, accounts and inventory related to games of chance or all records? The final-form regulation should clearly indicate if this provision applies to all of the records of a manufacturer, distributor or eligible organization. If it does apply to all records, the Department should provide justification for inspecting material outside the scope of this regulation." (1)

Response:

The Department agrees and has made revisions to limit the inspection of only records related to games of chance.

Section 901.36. Federal withholding and reporting requirements.--Clarity.

10. Comment:

"Section 901.36 references 'Internal Revenue Service rules' for reporting and withholding gambling and lottery winnings. . . . The final-form regulation should provide more specific cross-references to the appropriate rules." (1)

Response:

The Department does not believe that there is a need to cross reference withholding and reporting requirements under this regulation; therefore, no change has been made. There are innumerable rules and regulations related to Federal income tax withholding contained in the Internal Revenue Code and other Internal Revenue Service materials. It would be impossible for the Department to reference all the applicable rules and regulations.

Section 901.37. State withholding and reporting requirements.--Clarity.

11. Comment:

"Section 901.37 references 'Commonwealth rules' for reporting and withholding gambling and lottery winnings. The final-form regulation should provide more specific cross-references to the appropriate rules." (1)

Response:

The Department does not believe that there is a need to cross reference withholding and reporting requirements under this regulation; therefore, no change has been made.

Section 901.41 (a).--Clarity.

12. Comment:

"It is unclear what is meant by the following: An operating day or a non-operating day may not overlap

with any other operating day or non-operating day."
(2)

Response:

The Department believes the language is sufficiently clear and has not made any revisions.

Section 901.51. Powers and duties.-Consistency with the Act;-Clarity.

13. Comment:

Subsection (a)

"This section lists the powers and duties of the Department under the Act. Subsection (a) (6) states the Department has the power and authority to 'Prescribe procedures for the suspension and revocation of licenses and certificates for violations of the act.'" Under Section 901.1, relating to definitions, 'license' includes both distributor licenses, which are issued by the Department, and small games of chance licenses, which are issued by a licensing authority. The Act does not give the Department the authority to suspend or revoke small games of chance licenses. Therefore, this section should be amended to clarify that the Department can only suspend or revoke distributor licenses." (1)

Subsection (b)

"This subsection begins with the phrase, 'Although not limited to the following' This phrase is nonregulatory language and should be deleted." (1)

Response:

In response to comments regarding subsection (a), the Department feels it is sufficiently clear that the Department cannot suspend or revoke a license over which it has no jurisdiction; therefore, no revision has been made. In addition, the Department has reinserted the word "distributor" in paragraph (6) in the final-form rulemaking for clarity and to reflect the statutory authority of the Department.

In response to comments made regarding subsection (b), the Department agrees and the entire subsection has been deleted.

Section 901.101(c) - Approval of Modified Games.

14. **Comment:**

Commentator questioned if the approval of modified games was a "current practice" of the Department: (2)

"If a registered manufacturer modifies an approved game of chance in any substantial way such that the nature or identity of the game is changed, the rules of the game change or the prizes or payouts change, the game of chance shall be considered a new game of chance and must be submitted for approval."

Response:

Yes, it is the current policy of the Department.

Section 901.102. Registration and game approval forms.-
Clarity.

15. **Comment:**

"Under Subsection (b), a manufacturer seeking approval of a game of chance is required to submit a request to the Department. However, the criteria used to evaluate this request are not included in the regulation. The final-form regulation should include the criteria that will be used to evaluate requests." (1)

Another commentator voiced similar concern for subsection (b): "The rule lacks any indication as to the content of the form or any attachments that may be required to be submitted with the form (i.e. game promotional fliers as is now the case). It would be helpful if the information were contained in the proposed rule so that the manufacturers could review and comment, if necessary, on the specific information that will be required. This is particularly critical since a denial of a game approval can cause significant financial loss to the manufacturer." (3)

Response:

In response to commentator (1), Subchapter F (§ 901.601, et seq.) of the Small Games of Chance Regulations provides the manufacturing standards for small games of chance. The Department reviews games submitted for approval based on these standards.

There is no need to reiterate the standards in § 901.102; therefore, no change has been made.

In response to commentator (3), the Department agrees and the information to be requested on a game approval form has been added to the final-form regulation.

Section 901.103. Manufacturer registration application form contents.—Reasonableness; Clarity.

16. Comment:

"This section establishes the information that must be contained in an application for registration as a manufacturer. Paragraph (12) requires a notarized affidavit for each dispensing machine indicating that the machine complies with the Act and the regulations of the Department. For clarity, the Department should indicate if this requirement applies to each machine or each type of machine sold by a manufacturer. In addition, the Senate Committee questioned the need for a notarized affidavit. We agree and request that the Department explain the need for affidavits and especially notarized affidavits." (1)

A commentator questioned, "The need or value of a notarized affidavit for each dispensing machine sold or offered for sale. . . . I would think that an affidavit would be sufficient and question the value of it being notarized." (2)

A commentator for this section regarding notification by a manufacturer of any changes within 15 days suggested additional language to § 901.103a: "How does one know or determine when a change has occurred? I would think that it should be within 15 days of when a manufacturer has knowledge of a change in information." (2)

Another commentator did not object to the notarization but requested other modifications to subsection (12): "We believe that this should be modified to say each type of dispensing machine. It seems if a particular line of dispensing machines are identical in all respects and all meet the requirements of the rule, one notarized affidavit should be sufficient to cover all of the identical

machines." In addition, the commentator requested the application, "include all of the locations at which games of chance are manufactured by the applicant" for adequate background investigations. Also, another commentator is requesting that we "require all trade names used by the manufacturer so that the department can easily match a deal with its manufacturer, even if the deal is marketed under a trade name." (3)

Response:

In response to all three commentators, paragraph 12 has been deleted in the final-form regulation.

In response to commentator (2), § 901.103a, knowledge on the part of the manufacturer is implied; therefore, no change will be made.

In response to commentator (3), the Department agrees and the final-form regulation has been revised to include a requirement that the manufacturer must supply all trade names on its application.

Section 901.109 - "Conspicuously displayed" Registration certificate.

17. Comment:

"We suggest modifying this section to require the certificate to be maintained on the premises. . . . Manufacturer's facilities are private, closed to the public, and generally not accessible to distributors except by invitation. They are not retail outlets where distributors purchase products. Posting of the certificate would be seen by virtually no one other than the employees of the company, which serves no regulatory benefit." (3)

Response:

The Department agrees and has amended the regulation accordingly.

Section 901.117- Denial, Suspension and Revocation.

18. Comment:

A commentator expressed concern with the service of the notice of suspension to the resident designee in Subpart (d) (3): "Most companies use service of

process companies as their resident designees. These companies are not owned by the manufacturer and are not the appropriate recipient of such a significant notice. Any notice should be mailed to the Manufacturer's primary business address as listed on its application for a registration certificate. This is the only way to ensure that the notice is properly served." (3)

Another commentator has requested several clarifications in § 901.117: (2)

- Lack of definition of "Commonwealth resident designee" § 901.117(d) (3).
- § 901.117(a) (9) "in this part" should be replaced with appropriate section or subsection.
- § 901.117(b) "or this part" should be replaced with appropriate section or subsection.

Response:

The Department agrees with commentator (3)'s concern with service of the notice to the resident designee and has revised the regulation accordingly.

In response to commentator (2), the commentator is referred to current § 901.38 for information and the definition of a "Commonwealth resident designee."

In response to commentator (2)'s concern regarding use of the phrase, "in this part," the Department respectfully disagrees. The Department believes the language is sufficiently descriptive in that it refers to Part VII of Title 61 of the Pennsylvania Code, which contains the Small Games of Chance Regulations. The Department is not aware of any rule of regulatory drafting that would prohibit usage of the phrase. The phrase "in this part" is contained throughout the regulation and has been present since the regulation's initial promulgation. The Department does not believe it is appropriate to make such a global change to the regulation at this time. Further, the Department does not wish to limit its administrative authority by referencing specific regulatory sections to the exclusion of other sections that may be equally as applicable given different factual circumstances.

Section 901.143. Restriction on distributorship interest.
-Consistency with the act.

19. Comment:

"This section explains the restrictions on being a distributor in the Commonwealth. However, Section 317(g) of the Act contains further criteria. The Department should either add these criteria to this section in the final-form regulation, or include citations to the Act where the other criteria can be found." (1)

Response:

The Department disagrees with the comment. Section 901.143 only deals with and applies to restrictions on a distributor's interest in an eligible organization. It is not intended to be a list of all restrictions on a distributor's interest. Section 317(g) of the act deals with restrictions on people who can be officers, supervisors, employees, etc., of distributors. The section has nothing to do with interests of a distributor in an eligible organization. Therefore, there is no need to reference § 317(g) or add to its provisions here. Section 317(g) provisions are provided under § 901.151.

Section 901.144 (d) - "Or this part" Clarification.

20. Comment:

"Should reference the appropriate section or subsection instead of saying on two occasions: or this part." (2)

Response:

See response to Comment #18 above.

Section 901.168. Stay of appeal.-Reasonableness; Clarity.

21. Comment:

"Under Subsection (a), 'Actions to revoke a registration, license or game approval will be stayed pending the decision of the Secretary when a petition has been filed with the Board.' Subsection (b) states, 'During the pendency of the appeal, the certificate, game approval or license will be suspended.' These provisions are unclear. Will a

manufacturer or distributor be able to conduct business while they appeal an action? The Department should clarify its intent in the final-form regulation." (1)

Another commentator voiced concern on the language at § 901.168, "Why is the right to appeal a suspension being stricken?" Additionally, the commentator asked the rationale for the proposed regulation to suspend a registration or license during an appeal. (2)

Response:

In response to commentator (1), the Department has added a new section to the final-form regulation, § 901.23a, which explains the effect of a denial, suspension, revocation, expiration of a certificate, license, or game of chance. The Department has also included a cross-reference to the new regulatory section in subsection (b) of § 901.168.

In response to commentator (2), the Department is removing suspensions as an administrative tool (generally) from the final-form regulations. Therefore, this comment is no longer relevant. In the final-form regulation, the only time a suspension will come into play is during an appeal. A manufacturer or distributor's license will be suspended during an appeal of a revocation. The suspension exists to protect the public from a manufacturer or distributor who, in the Department's estimation, has violated the act or the Department's regulations. The Department believes a suspension is appropriate based upon the legislative mandate that all aspects of games of chance be strictly regulated to protect the public. A suspension is an appropriate balance between the protection of the public and the due process rights of the manufacturer or the distributor.

Section 901.188. Location.—Clarity.

22. Comment:

"Subsection (b) establishes the places eligible organizations may conduct games of chance. It includes the term 'historical basis.' The Senate Committee commented that this term is unclear. We

agree and recommend that the term be explained in this section." (1)

Response:

Section 901.188 has been removed in the final-form rulemaking.

Section 901.192. Denial, suspension and revocation of an eligible organization license.-Clarity.

23. Comment:

Subsections (a), (b) and (c)

"These subsections relate to the 'denial,' 'suspension' and 'revocation and denial' of an eligible organization's license. The final-form regulation should include a cross-reference to the appeal procedures in Sections 901.214 and Section 901.215." (1)

§ 901.192(c) (1) (ii)

The violation has substantially harmed the public.
"The phrase 'substantially harmed' lacks the ability to be measured and thus enforced." (2)

Response:

Section 901.192 has been removed from the final-form rulemaking.

Section 901.196. Limited occasion license requirements, limits and restrictions.-Clarity.

24. Comment:

"Subsection (e) establishes a fee of \$10 for a limited occasion license. As noted by the Senate Committee, Section 901.184 already sets the fee. To avoid redundancy, the fee should be deleted from one of these sections." (1)

Response:

The Department agrees and § 901.184 is deleted in the final-form rulemaking. Section 901.196 remains unchanged.

Section 901.215. Appeals.—Reasonableness; Clarity.

25. Comment:

"Subsection (b) relates to the timely filing of an appeal. It states that the date an appeal is received at the licensing authority is the filing date. Why isn't the postmark date acceptable?" (1)

Response:

Section 901.215 is deleted in the final-form rulemaking.

Section 901.421. Distributor License Copy.

26. Comment:

"Because each distributor license will have a license number, we suggest modifying this section to require the manufacturer to maintain the license number of each distributor to which it sells games of chance. Most manufacturers have relatively sophisticated computer software which is programmed to deal with the regulatory limitations in various states. The distributor's license numbers could be entered in to the program so that the information is available and accurate. Maintaining a hard copy is cumbersome and inconsistent with current technology." (3)

Response:

The Department agrees and has revised the final-form regulation.

Section 901.425(1) Sales Invoices.

27. Comment:

Commentator refers to comments under § 901.23 regarding reconciliation of these two sections. (3)

Response:

See response to Comment #6.

Section 901.501 - Advertising.

28. Comment:

"This section starts off by prohibiting eligible organizations or other persons from advertising prizes or dollar values, but then goes onto say that an eligible organization may advertise prizes and the

values of such in periodic publications. The way such is currently worded, it appears to be contradictory. Need to add an except for clause to the paragraph." (2)

Response:

The Department agrees. Section 901.501 has been divided into separate paragraphs for clarity.

Section 901.504. Persons who may conduct games.-Clarity.

29. Comment:

"Section 901.503, relating to compensation, states, 'A licensed eligible organization may not pay compensation to a person for conducting games of chance.'" Section 901.504 provides the list of those individuals that may conduct games for licensed eligible organizations. The list includes managers, officers, directors, bar personnel or bona fide members. We have two questions. First, since bar personnel are usually paid by the licensed eligible organization, is there a conflict between this section and Section 901.503 concerning who can conduct games of chance? The Department should explain. Second, would auxiliary members be allowed to conduct games of chance?" (1)

Response:

The Department disagrees. There is no conflict between the two sections. The limitation in § 901.503 only applies in situations where a person is paid to conduct games of chance. There is no prohibition if the person conducting games is also paid for other services.

In addition, auxiliary members can conduct games of chance. The final-form regulation has been revised to indicate that auxiliary members may conduct games of chance.

Section 901.701. Games of chance permitted.-Clarity.

30. Comment:

"Subsection (b) states, 'A licensed eligible organization shall use games of chance proceeds exclusively for public interest purposes or for the purchase of games of chance permitted by the act or

this part.' Could licensed eligible organizations use games of chance proceeds to purchase prizes? The Department should explain." (1)

Response:

An eligible organization may use games of chance proceeds to purchase games of chance prizes. The final-form regulation has been revised to make this clarification.

Section 901.702. Prize limits.-Clarity.

31. Comment:

"Subsection (e) relates to prize limit exceptions for daily drawings. It provides an exception for daily drawings that are set up to pay out not less than 100% of the gross revenues generated from such drawing. The last sentence of this subsection states the following: 'The limitation in subsection (b) may be exceeded only by the amount of the daily drawing paying 100% of its gross revenues.' This sentence is unclear. The language in Section 315(g) of the Act is clearer. Therefore, the final-form regulation should replace the confusing language in Subsection (e) (2) with the language from Section 315(g) of the Act." (1)

Response:

The Department agrees. Revisions have been made to clarify subsection (e) and similar revisions have been made to subsection (f) for consistency.

Section 901.708. Persons who may conduct games of chance.-Clarity.

32. Comment:

"Similar to our questions related to Section 901.504, we request that the Department explain if allowing bar personnel to conduct games of chance creates a conflict with Section 901.707, and how this section applies to auxiliary members." (1)

Response:

See response to Comment #29.

Miscellaneous clarity

Nonregulatory language:

Sections 901.107, 901.137 and 901.185 use the term 'should.'

33. Comment:

"The word 'should' is non-regulatory language that implies the action is optional. The final-form regulation should replace the word 'should' with 'shall.' (1)

Response:

Sections 901.107 and 901.137 have been modified in the final-form rulemaking and the word 'should' has been replaced with 'shall.'

Section 901.185 has been removed in the final-form regulation.

Sections 901.148 and 901.149 state that a distributor 'will' notify the Department of certain information.

34. Comment:

"According to Section 6.8 of the Pennsylvania Code & Bulletin Style Manual, the word 'will' should be used when the agency pledges to act. The word 'shall' should be used when anyone else has a duty to act. Because the distributor has an obligation to act, these sections should be amended accordingly." (1)

Response:

Sections 901.148 and 901.149 have been modified in the final-form rulemaking and the word 'will' has been replaced with 'shall.'

Section 901.192 states that the licensing authority 'shall' perform certain duties.

35. Comment:

"In this circumstance the licensing authority is the agency. For the reasons noted above, this section should be amended by replacing 'shall' with 'will.'" (1)

Response:

Section 901.192 has been removed in the final-form rulemaking.

Section 901.601 Uniform minimum quality standards.

36. Comment:

"NAFTM not only supports the NAGRA standards, we actively participated in the development of them. The current NAGRA standards have been in place since 1992. It is likely that they will be updated and revised. We suggest making it clear that the rules are incorporating the NAGRA standards as they may be amended from time to time." (3)

Response:

The Department agrees with commentator's suggestion and the final-form regulation has been revised.

Section 901.608 - Consistent with definition of "Flare".

37. Comment:

"(b) Please see the comments to the definition of 'flare' above. Again both sections should be consistent. (c)(1) This subpart is unclear and confusing in that it requires a flare to be 'printed on or made part of each pull-tab in a deal.' A flare cannot be printed on each pull-tab nor can it be made a part of each pull-tab in a deal. However, the subpart could be amended to say '...or made a part of each pull-tab deal.' This is repetitive, given that the definition of 'pull-tab game' is a deal and its corresponding flare. But, otherwise, the subpart makes no sense." (3)

Response:

See response to Comment #5. Further, § 901.608(c)(1) has been modified in the final-form regulation.

Sections 901.905 - 901.907 relate to investigations.

38. Comment:

Sections 901.905 and 901.906 "state that the Department or licensing authority 'may' investigate a manufacturer, distributor or licensing authority 'when it has reason to believe that a violation of the act or this part has occurred or is occurring.'

Section 901.907 relates to notice of investigations. It states that the Department and licensing authorities 'may' provide information concerning an investigation to each other and the district attorney. The word 'may' indicates that these provisions are optional. Since the subject matter of these sections is investigations of violations of the Act, these provisions should be mandatory. Therefore, the word 'may' should be changed to 'shall' throughout these sections." (1)

Response:

Sections 901.905 - 901.907 have been deleted in the final-form rulemaking.

Miscellaneous - Other:

Phrase "In this part".

39. Comment:

"This proposed rulemaking and the existing language of Chapter 901 use the phrase 'in this part.' As noted by the Senate Committee, this phrase should be replaced with the appropriate section or subsection of the regulation. Although the comments of the Senate Committee relate to Section 901.117, we recommend that the phrase 'in this part' be replaced throughout Chapter 901." (1)

Response:

The Department respectfully disagrees and has not removed this phrase throughout the regulation. See response to Comment #18.

Phrases - "Substantially harmed" and "timely remedied".

40. Comment:

"Sections 901.117, 901.151, 901.192 and 901.214 relate to the suspension, denial or revocation of certificates or licenses of manufacturers, distributors and eligible organizations. These sections contain the phrases 'substantially harmed' and 'timely remedied.' As noted by the Senate Committee, the phrase 'substantially harmed' lacks the ability to be measured and thus enforced. We

agree with this comment and believe the phrase 'timely remedied' also lacks the ability to be measured. The final-form regulation should define the phrase 'substantially harmed' or provide examples of what is meant by this phrase. In addition, it should provide specific time periods in which the violations must be remedied." (1)

Response:

The Department agrees and has modified the regulatory language in sections 901.117 and 901.151 in the final-form regulation. The phrases "substantially harmed" and "timely remedied" have been removed.

Sections 901.192 and 901.214 have been removed in the final-form rulemaking.

Forms.

41. Comment:

"Variants of the phrase 'forms prescribed by the Department' are used throughout the proposed rulemaking and the existing language of Chapter 901. We recommend that the specific forms be referenced by name or number throughout Chapter 901. Additionally, will these forms be available on the Department's website?" (1)

Response:

The Department disagrees. See Pennsylvania Code and Bulletin Style Manual, § 2.10 Forms.

Notification to district attorneys.

42. Comment:

"Sections 901.704, 901.709 and 901.751 require eligible organizations to notify district attorneys of certain actions. These sections do not specify when notification should take place. The final-form regulation should include time periods for these notifications." (1)

Response:

The Department agrees with this comment and revisions to the final-form regulation have been made accordingly.

Incomplete application forms.

43. Comment:

"Sections 901.102 and 901.132 pertain to application forms that must be submitted by manufacturers and distributors to the Department. The final-form regulation should include provisions that explain what will happen if the application forms are not complete." (1)

Response:

The Department disagrees. The regulation addresses what will happen if the form is not complete at § 901.102(c) and in the last sentence of § 901.132.

Annual renewal applications of manufacturers, distributors and eligible organizations.

44. Comment:

"Sections 901.107, 901.137 and 901.185 have been amended to advise manufacturers, distributors and eligible organizations that they should file their annual applications a specific number of days prior to the expiration of their certificate or license. The original language of these sections required renewal applications to be filed by a certain date. The original language was clearer. Therefore, we recommend that the original language of these sections be retained." (1)

Response:

Sections 901.107 and 901.137 have been modified in the final-form rulemaking. Section 901.185 has been removed in the final-form rulemaking.

Additional clarity concerns:

45. Comment:

"In the titles of Sections 901.117 and 901.192, there should be commas between 'Denial' and 'suspension.'" (1)

Response:

The Department has revised § 901.117 in the final-form regulation. Section 901.192 has been deleted in its entirety in the final-form regulation.

46. Comment:

"The title of Section 901.30 contains the phrase 'and the like.' This phrase lacks clarity. The Department should either delete this phrase, or replace it with language found in this section. An example could be 'prizes and services' or just 'services.' (1)

Response:

The Department disagrees. The comment relates to a title that is in the current regulation and the Department does not feel there is a need to change the language.

47. Comment:

"Section 901.188 includes a reference to Section 901.181, which is now reserved. Section 901.212 includes references to Section 901.211, which is now reserved." (1)

Response:

Sections 901.188 and 901.212 are deleted in the final-form rulemaking.

48. Comment:

"Section 901.781(g) should include a cross-reference to Section 901.784, relating to claiming prizes. Section 901.791(f) should include a cross-reference to Section 901.794, relating to claiming prizes." (1)

Response:

The Department agrees with this comment and revisions to the final-form regulation have been made accordingly.

49. Comment:

"The title of Section 901.905 is 'Investigations of manufacturers, distributors and eligible organizations.' The text of this section only relates to investigations of eligible organizations. The title should be amended to 'Investigations of eligible organizations.'" (1)

Response:

Section 901.905 has been deleted in the final-form rulemaking.

NOTICE OF FINAL RULEMAKING

DEPARTMENT OF REVENUE

61 Pa. Code §§ 901.1 - 901.811

Local Option Small Games of Chance

The Department of Revenue received requests for a copy of the final-form regulation from the following:

Mary B. Magnuson
National Association of
Fundraising Ticket Manufacturers
Energy Park Financial Center
Suite 210
1360 Energy Park Drive
St. Paul, Minnesota 55108

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED

2016 MAY 26 AM 10:27

INDEPENDENT REGULATORY
REVIEW COMMISSION

I.D. NUMBER: 15-425
SUBJECT: Local Option Small Games of Chance
AGENCY: DEPARTMENT OF REVENUE

TYPE OF REGULATION

Proposed Regulation

X Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
5/24/06	Jessica Henninger	HOUSE COMMITTEE ON FINANCE
5-26-06	Eric F. Miller	
5/26/06	Kristi Kreiser	SENATE COMMITTEE ON FINANCE
5/26/06	Jen Keeper	
5/26/06	Dr. Helmut	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

May 17, 2006