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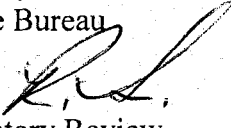


Pennsylvania Gaming Control Board



April 26, 2007

To: Chairmen of the Senate Community, Economic and Recreational Development Committee
Chairmen of the House Gaming Oversight Committee
Independent Regulatory Review Commission
Legislative Reference Bureau

From: Richard Sandusky 
Director of Regulatory Review
Pennsylvania Gaming Control Board

Re: Proposed Regulation 125-61

In the Annex for the above proposed regulation that was delivered to you today there are two typographical errors, one on page 25 and one on page 34. Attached are corrected pages 25 and 34 for insertion in the Annex.

We apologize for our error. If you have any further questions regarding this proposed regulation, please do not hesitate to contact me at 214-8111 or by email at rsandusky@state.pa.us.

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(c) A licensed manufacturer or a licensed manufacturer designee may supply or repair any slot machine or associated equipment manufactured by the licensee.

(d) A licensed manufacturer may contract with a slot machine licensee or a licensed supplier to supply or repair slot machines or associated equipment manufactured by the manufacturer licensee.

(e) No limitation shall be placed on the number of manufacturer licenses issued or when an application for a manufacturer license may be filed.

§ 427a.2. Manufacturer license applications and standards.

(a) An applicant for a manufacturer license shall submit:

(1) An original and three copies of the Manufacturer Application and Disclosure Information Form.

(2) A nonrefundable application fee.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).

(4) An application from every key employee under § 435.3 (relating to key employee license) and principal under Chapter 433 (relating to principal licenses) as specified by the Manufacturer Application and Disclosure Information Form or as determined by the Board.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).

(4) An application from every key employee under § 435.3 (relating to key employee license) and principal under Chapter 433 (relating to principal licenses) as specified by the Supplier Application and Disclosure Information Form or as determined by the Board

(5) If applicable, copies of all filings required by the United States Securities and Exchange Commission during the 2 immediately preceding fiscal years, including all annual reports filed under section 13 or section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a and 78o(d)), quarterly reports filed under section 13 or section 15(d) of the Securities Exchange Act of 1934, current reports filed under section 13 or section 15(d) of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.

(6) An affirmation that neither the applicant nor any of its affiliates, subsidiaries, intermediaries and holding companies holds any direct or indirect ownership interest in an applicant for or holder of a manufacturer license or slot machine licensee, or employs, directly or indirectly, any person who satisfies the definition of a principal or key employee of a

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

Pennsylvania Gaming Control Board

(2) I.D. Number (Governor's Office Use)

125 - 61

IRRC Number:

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 2670

(3) Short Title

Subpart B: Licensing, Permitting, Certification and Registration

(4) PA Code Cite

58 PA. Code
 Chapters 421a, 423a, 425a, 427a,
 431a, 436a, 438a, 439a and 440a

(5) Agency Contacts & Telephone Numbers

Primary Contact: Richard Sandusky
 717-214-8111 / rsandusky@state.pa.us

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
- Final Order Adopting Regulation
- Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
- Yes: By the Attorney General
- Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

Pursuant to the authority granted to the Board under § 1203 of The Pennsylvania Horse Race Development and Gaming Act (Act)(4 Pa.C.S. § 1203), the Board initially adopted Chapters 421, 423, 427 and 431 on June 16, 2005 (35 Pa.B. 4045), Chapter 425 on December 13, 2006 (37 Pa.B. 21), Chapter 436 on June 15, 2006 (36 Pa.B. 3409), Chapter 438 on June 28, 2006 (36 Pa.B. 3951), Chapter 439 on November 17, 2005 (35 Pa.B. 6619) and Chapter 440 on January 19, 2006 (36 Pa.B. 679) as temporary regulations. Under the Act, these temporary regulations will expire on July 5, 2007.

By this rulemaking, the Board is proposing to replace those temporary regulations with permanent regulations.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

§ 1202(b)(30) of the Act (4 Pa.C.S. § 1202(b)(30)) provides the Board with general authority to promulgate regulations the Board deems necessary to carry out the policy and purposes of the Act. §§ 1202(b)(9), (13)-(20) and (23), 1202.1(b) and (e), 1317, 1317.1, 1321(a)(1) and (2), 1325, 1326, 1331 and 1406 of the Act provide more specific authority for the various chapters.

Regulatory Analysis Form

(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.

§ 1203(a) of The Pennsylvania Horse Race Development and Gaming Act (Act)(4 Pa.C.S. § 1203(a)) provides that temporary regulations adopted by the Board shall expire no later than three years following the effective date of the Act. Accordingly, promulgation of the proposed regulations before that date is necessary.

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

Promulgation of these regulations is necessary to replace the Board's temporary regulations that will expire and are needed to carry out the policy and purposes of the Act and to enhance the credibility and the integrity of gaming in the Commonwealth.

More specifically, these chapters provide more detailed information concerning what information, forms and fees must be submitted with applications, obligations of applicants, renewal procedures and responsibilities of holders of the various licenses, permits and registrations than are contained in the Act.

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

Failure to replace the existing temporary regulations could create disruptions in gaming in the Commonwealth which could reduce future gaming revenues and reduce employment opportunities in the gaming industry.

Additionally, the lack of permanent regulations could create confusion for applicants concerning the procedures and requirements that pertain to the various applications.

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

Applicants for and holders of licensed entity representative registrations, manufacturer licenses, supplier licenses, horsemen permits and registrations, labor organization permits, and management company licenses will benefit by having more extensive understanding of the procedures and requirements associated with the application process and what their obligations will be.

A table with numbers of applications that have been received and processed by the Board by type of application is attached.

Prospectively, the Board anticipates additional applications in most of the categories listed above with the exception of suppliers.

Regulatory Analysis Form

(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.)

Because these regulations are designed to prevent those who are not qualified from receiving a license, permit or registration, there is no adverse impact associated with these regulations.

(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.)

The attached chart referenced in Question #13 lists the numbers of applicants by type of application..

(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.

Drafts of most of the temporary regulations were published in the *Pennsylvania Bulletin* and posted on the Board's website for public comment prior to their adoption.

Additionally, regulations, application forms, procedures and requirements in other states were reviewed during the development of the application processes, forms and requirements for these chapters.

(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.

Applicants for and holders of manufacturer licenses, supplier licenses, horsemen permits and registrations, labor organization permits, and management company licenses will be subject to application and renewal fees and be required to pay additional investigation costs. Fees collected by the Board are shown in the chart in Question #20. A chart with the fees charged by the Board for various applications and renewals is attached.

Applicants will also incur some costs to fill out the application forms and provide additional information.

There are no savings generated as a result of these regulations.

Regulatory Analysis Form

(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.

There will be no costs imposed upon or savings to local governments associated with these regulations.

(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.

The Board's cost related to these regulations will consist of the cost of processing applications and conducting investigations of applicants.

The Pennsylvania State Police will experience costs for fingerprinting and conducting criminal background checks of applicants.

Estimates of these costs are included in the chart in Question #20.

There are no savings to state government as a result of these regulations.

Regulatory Analysis Form

(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	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:						
Regulated Community	\$3,000,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	\$10,826,000	\$10,083,000	\$10,486,000	\$10,906,000	\$11,342,000	\$11,796,000
Total Costs	\$13,826,000	\$10,733,000	\$11,136,000	\$11,556,000	\$11,992,000	\$12,446,000
REVENUE LOSSES:						
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

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

Current year costs for the regulated community reflect the fees paid to the Board. In subsequent years, the figures are based on projections for new application and for renewal fees.

State government costs are based on estimates of the amount of time spent on these programs by Board personnel in the Bureau of Licensing, Bureau of Investigations and Enforcement and Office of Hearings and Appeals and by the Pennsylvania State Police.

Regulatory Analysis Form

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

Program	FY -3	FY -2	FY -1	Current FY
Board Budget	N/A	\$2,900,000	13,200,000	\$26,400,000

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

Applicants will benefit by having a clearer understanding of what the application requirements are.

The Board will benefit by reducing the number of applicant inquiries about application requirements and obligations and may benefit by receiving more complete applications which will reduce the need to request additional information from the applicants.

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

The only alternative considered was to implement practices based solely on the Act.

While the Act contains many of the requirements that are in the regulations, the regulations provide more detailed guidance about how the Board will process applications.

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

No other regulatory schemes were considered.

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.

There are no corresponding Federal requirements.

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

Many of the provisions in these regulations are similar to those in other gaming jurisdictions.

Nothing in these chapters will 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.

These regulations will replace the existing temporary Chapters 421, 423, 425, 427, 431, 436, 438, 439 and 440 in 58 PA. Code.

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

No additional hearings or meetings beyond the normal public comment period have been scheduled.

Regulatory Analysis Form

(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.

The proposed regulations require extensive amounts of information to be filed by applicants so that the Board can evaluate the applicants. However, these chapters do not add any new requirements compared to what is required under the temporary chapters.

Copies of the application forms are available on the Board's website.

(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.

These regulations contain no special provisions for the groups listed above.

(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?

These regulations will be effective upon publication as a final rule in the *Pennsylvania Bulletin*.

It is anticipated that final regulations will be adopted in the Fall of 2007.

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

No formal review schedule has been established. Instead, the Board will be constantly reviewing its regulations and proposing amendments as the need arises.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU

(Pursuant to Commonwealth Documents Law)

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

[Signature]

By: _____
(Deputy Attorney General)

APR 25 2007

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

Pennsylvania Gaming
Control Board

FISCAL NOTE NO. 125- 61

DATE OF ADOPTION: 2.27.07

BY: *[Signature]*
Thomas Decker, CHAIRMAN

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

BY: *[Signature]*
Frank Donaghue, Chief Counsel

2.27.07

DATE OF APPROVAL

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

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

PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA

58 PA. CODE, CHAPTERS 421a, 423a, 425a, 427a, 431a, 436a, 438a, 439a, 440a

PROPOSED PREAMBLE FOR SUBPART B

PENNSYLVANIA GAMING CONTROL BOARD

**[58 PA.CODE CHAPTERS 421a, 423a, 425a, 427a, 431a, 436a, 438a,
439a and 440a]**

**GENERAL PROVISIONS; APPLICATIONS; LICENSED ENTITY
REPRESENTATIVES; MANUFACTURER LICENSES; SUPPLIER LICENSES;
HORSEMEN'S ORGANIZATIONS; LABOR ORGANIZATIONS; JUNKET
ENTERPRISES; MANAGEMENT COMPANIES**

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b) (30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1202(b) (9), (13)-(20) and (23), 1202.1(b) and (e), 1317, 1317.1, 1321(a) (1) and (2), 1325, 1326, 1331 and 1406 (relating to general and specific powers; code of conduct; supplier licenses; manufacturer licenses; additional licenses and permits and approval of agreements; license or permit issuance; license renewals; duty of licensees, key employees and gaming employees; and distributions from Pennsylvania Race Horse Development Fund), proposes to adopt Chapters 421a, 423a, 425a, 427a, 431a, 436a, 438a, 439a and 440a (relating to general provisions; applications; licensed entity representatives; manufacturer licenses; supplier licenses; horsemen's organizations; labor organizations; junket enterprises; and management companies) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

Under the authority granted to the Board under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board initially adopted temporary regulations in Chapters 421, 423, 427 and 431 at 35 Pa.B. 4045 (July 16, 2005), Chapter 425 at 37 Pa.B. 21 (January 5, 2007), Chapter 436 at 36 Pa.B. 3409 (July 1, 2006), Chapter 438 at 36 Pa.B. 3951 (July 22, 2006), Chapter 439 at 35 Pa.B. 6619 (December 3, 2005) and Chapter 440 at 36 Pa.B. 679 (February 4, 2006). Under 4 Pa.C.S. Part II (relating to gaming), the temporary regulations will expire on July 5, 2007.

The Board is proposing to replace the temporary regulations with the permanent regulations in this proposed rulemaking.

*Explanation of Chapters 421a, 423a, 425a, 427a, 431a, 436a,
438a, 439a and 440a*

Chapter 421a is an updated version of temporary Chapter 421. A number of revisions were made to improve clarity, increase parallel construction and remove redundant provisions. § 421a.1 contains general requirements that apply to all applicants. It includes items such as a requirement that applicants consent to investigations, agree to abide by provisions of the Act and the Board's regulations, and waive liability as to the Board and other state agencies pertaining to disclosure of application information. It also requires applicants to report suspected violations of the Act, to report changes in information provided in its application and to provide any additional information requested by the Board. A provision that appears in § 435.1(1) has been added to this section as Subsection (j).

§ 421.2 from the temporary regulation has been deleted. This section listed the types of licenses, permits, certifications and registrations issued by the Board, but contained no regulatory requirements.

§ 421a.2 contains criteria the Board may use to deny an initial or renewal application or suspend or revoke a license, permit, certification or registration. Included in the list are: failure to prove that the applicant is qualified; violations of the Act or the Board's regulations; misrepresentations of facts in the application; or violations of state or federal laws.

§ 421a.3 provides that the Board may make inquiries or conduct investigations of applicants for or holders of a license, permit, certification or registration. It also requires applicants for or holders of a license, permit, certification or registration to cooperate in these investigations.

§ 421a.4 outlines the procedures for conducting presuitability determinations of potential purchasers of an applicant for or holder of a license.

§ 421a.5 restates the provision in Section 1102(5) of the Act (relating to legislative intent) to prevent undue concentration of economic opportunities and control in gaming. It specifies the opportunities for control the Board will evaluate and the criteria the Board will exam to determine the potential for undue concentration.

Chapter 423a replaces temporary Chapter 423. It contains provisions that pertain to all applications filed with the Board.

§ 423a.1 contains general provisions including: requirements that applications be on Board forms; that applicants file supplemental forms required and additional information requested by the Board; and that all information be true and complete. It also specifies that: some documents must be sworn to or notarized; English translations or summaries must be provide for documents in a foreign language; applications will be denied if the applicant fails to cooperate in investigations; and all application materials submitted to the Board become the property of the Board.

§ 423a.2 is a new section that outlines the process for preliminary review of applications, allows the applicant an opportunity to provide missing materials and requires the return of an incomplete application to the applicant.

§ 423a.3 outlines the general process that will apply to the review of applications after they have been accepted for filing. It also includes provisions requiring the Board to publish a list of applications and actions related to the applications and that the information provided in the application will be part of the evidentiary record that the Board will used to render its decision.

§ 423a.4 addresses deficient applications. It outlines the process for notification of deficiencies, how an applicant can cure deficiencies, and that the application may be immediately denied if the deficiencies are not corrected.

§ 423a.5 governs withdrawals of applications. It requires applicants to file a petition for withdrawal which specifies the reasons for the withdrawal. It also permits the Board to grant a petition for withdrawal with or without prejudice and bars reapplication by applicants whose withdrawal was granted with prejudice for five years. Additionally, this section allows the Board to convert an incomplete application to a petition for withdrawal and that all fees and costs related to the application must be paid before a petition for withdrawal will be approved.

§ 423a.6 specifies that an application will not be issued until all fees have been paid and all conditions set by the Board have been fulfilled. It also provides that the Board may require that a Statement of Conditions be signed by an entity's

executive officer and that violation of any of the conditions in the Statement of Conditions may result in the imposition of administrative sanctions by the Board.

§ 423a.7 imposes a five-year restriction on reapplications by applicants whose application was denied or by holders of a license, permit, certification or registration if their license, permit, certification or registration was revoked. It establishes a process to petition for reapplication after two years and specifies what must be in the petition. If a petition for early reapplication is denied, the petitioner may not file another request for early reconsideration for at least one year.

Chapter 425a replaces temporary Chapter 425. Like the temporary regulations, this chapter requires licensed entity representatives to file a Licensed Entity Registration Form and update their information on an on-going basis. It also requires the Board to maintain a list of licensed entity representatives which will be available at its offices and on the Board's website.

Chapter 427a replaces Chapter 427 of the temporary regulations. It has been reorganized to improve the chapter's clarity and to incorporate changes made in Act 135.

§ 427a.1 specifies: who must obtain a manufacturer license; that an applicant for or holder of a manufacturer license can't apply for or hold a slot machine or supplier license; that a licensed manufacturer or manufacturer designee may supply or repair the manufacturer's equipment; that a licensed manufacturer can contract with a licensed supplier to supply or repair the manufacturer's equipment; and that no limitation will be placed on the number of manufacturer licenses issued or when applications for a manufacturer license may be filed.

§ 427a.2 lists what is required from an applicant for a manufacturer's license. An applicant must submit: the Manufacturer Application and Disclosure Information Form; the application fee; a diversity plan; applications for key employees and principals; SEC filings; an affirmation that the applicant and its affiliates, intermediaries, subsidiaries or holding companies does not hold an interest in a slot machine applicant or licensee; and an affirmation that the applicant has developed and implemented safeguards to prevent a violation of section 1513 of the Act. Manufacturer applicants are also required to provide additional information requested by the Board, comply with the requirements of Chapters 421a and 423a, demonstrate the ability to produce, repair or modify slot

machines or associated equipment and pay any additional cost related to background investigations of the applicant. Additionally, this chapter lists the criteria the Board will use to evaluate these applications.

§ 427a.3 is a new section that specifies that a manufacturer's license is good for one year, that renewal applications must be submitted six months prior to the expiration of the license, and that a license for which a renewal application and fee has been received will remain in effect for up to an additional six months until the Board acts on the renewal application.

§ 427a.4 lays out the process for an alternative review of a manufacturer's license application based on the applicant's licensure in another jurisdiction. It requires submission of the application materials filed in the other jurisdiction, a copy of the other license or order approving the license, and disclosure of any enforcement actions pending in the other jurisdiction.

§ 427a.5 sets forth the responsibilities of licensed manufacturers including requirements to: provide information requested by the Board; report changes in circumstances that could affect the licensee's eligibility for the license; and provide copies of any SEC filings within 30 days of submission of the filings to the SEC. This section also specifies which employees must obtain occupational permits and clarifies what a slot machine license may do in terms of servicing or repairing the manufacturer's slot machines or associated equipment pursuant to a contract with the manufacturer. It also permits a slot machine licensee to perform routine maintenance without requiring an agreement between the slot machine licensee and the manufacturer.

Chapter 431a replaces Chapter 431 of the temporary regulations. It has been reorganized to improve the clarity of the chapter and to incorporate changes made in Act 135.

§ 431a.1 specifies: who must obtain a supplier license; that an applicant for or holder of a supplier license can't apply for or hold a slot machine or manufacturer license; and that no limitation will be placed on the number of supplier licenses issued or when applications for a supplier license may be filed.

§ 431a.2 lists what is required from an applicant for a supplier's license. An applicant must submit: the Supplier

Application and Disclosure Information Form; the application fee; a diversity plan; applications for key employees and principals; SEC filings; an affirmation that the applicant and its affiliates, intermediaries, subsidiaries or holding companies does not hold an interest in a manufacturer or slot machine applicant or licensee; and an affirmation that the applicant has developed and implemented safeguards to prevent a violation of section 1513 of the Act. Supplier applicants are also required to provide additional information requested by the Board, comply with the requirements of Chapters 421a and 423a, demonstrate that the applicant has or will establish a place of business in the Commonwealth; and pay any additional cost related to background investigations of the applicant. Additionally, this chapter lists the criteria the Board will use to evaluate these applications.

§ 431a.3 is a new section that specifies that a supplier's license is good for one year, that renewal applications must be submitted two months prior to the expiration of the license, and that a license for which a renewal application and fee has been received will remain in effect for up to an additional six months until the Board acts on the renewal application.

§ 431a.4 contains supplier responsibilities. These include requirements to: establish a place of business in the Commonwealth within one year; secure assets or lines of credit to support the supplier's operations; and submit agreements between the supplier and any manufacturer or slot machine licensee and detailed business plans. This section also requires a supplier to: provide information requested by the Board; report changes in circumstances that could affect the licensee's eligibility for the license; and provide copies of any SEC filings within 30 days of submission of the filings to the SEC. It also specifies which employees of the supplier are required to obtain an occupation permit and what activities are permissible for slot machine and manufacturer licensees to perform.

§ 431a.5 requires suppliers to maintain a log book to register all individuals who enter the supplier's principal place of business and any facility where slot machines are stored. It specifies what information must be entered in the log book and that the log book must be readily accessible for inspection by the Board, Department of Revenue or Pennsylvania State Police.

Chapter 436a replaces Chapter 436 of the temporary regulations. The revisions in Chapter 436a were primarily editorial in nature.

§ 436a.1 contains definitions of terms that are only used in this chapter.

§ 436a.2 requires each horsemen's organization to file a Horsemen's Organization Registration Statement and requires applicants to comply with the requirements in Chapters 421a and 423a. It specifies that registrations will be valid for four years, that renewal applications must be filed at least 120 days prior to expiration and that if a renewal application and fee has been received, the current registration shall remain in effect until the Board acts on the renewal application.

§ 436a.3 requires each officer, director or representative to file a Horsemen's Permit Application Form. This section also requires applicants to comply with the requirements in Chapters 421a and 423a. It specifies that permits will be valid for one year, that renewal applications must be filed at least 60 days prior to expiration and that if a renewal application and fee has been received, the current permit shall remain in effect until the Board acts on the renewal application. It also precludes any officer, director or representative who has been denied a permit from participating in any activity involving gaming funds allocated to the horsemen's organization. Additionally, third party providers of health and benefit plans and, under certain conditions, attorneys and accountants are not required to obtain a permit.

§ 436a.4 outlines the responsibilities of horsemen's organizations and officers, directors or representatives. These include ensuring that all funds are used for the benefit of all horsemen, that adequate records are maintained, that annual independent audits are conducted and that copies of the audits are submitted to the Board. These audits will be available for public inspection at the Board's Harrisburg office. A new provision was added to this section to clarify that these funds can not be used for the personal benefit of any officer, director or representative except to the extent that the benefit is available to all program participants.

§ 436a.5 specifies fiduciaries' responsibilities which include: ensuring that funds are used for the benefit of the horsemen; managing health and benefit plans; acting in a prudent manner; complying with any limitations on investments; and funding benefits as required by law or plan rules. This section

also requires the filing of quarterly reports with the Board and providing documents requested as part of any investigation.

§ 436a.6 requires that all health and benefit plan contracts must be submitted to the Board at least 90 days prior to their effective date and that they can not go into effect until they have been approved by the Board. It also requires administrative costs to be reasonable and sets a 15% limitation on what the Board will consider to be reasonable.

Chapter 438a replaces Chapter 438 of the temporary regulations. § 438a.1 contains definitions of terms that are only used in this chapter

§ 438a.2 requires each labor organization to file a Labor Organization Form and file updates within 30 days of any changes.

§ 438a.3 requires every labor organization officer, agent, and management employee to file a Labor Organization Permit Application Form with the permit fee and comply with the requirements in Chapters 421a and 423a. It also provides that these permits will be valid for one year, that renewal applications must be filed at least 60 days prior to expiration and that if a renewal application and fee has been received, the current permit shall remain in effect until the Board acts on the renewal application.

Chapter 439a replaces Chapter 439 of the temporary regulations.

§ 439a.1 contains definitions of terms that are only used in this chapter.

§ 439a.2 specifies who can file a junket enterprise application and that no services can be provided until a license has been obtained.

§ 439a.3 requires an applicant to submit: a Junket Enterprise License Form; the application fee; a Junket Enterprise License Form for each principal entity; and a Junket Enterprise Representative Registration for each principal who is an individual and each key employee. This section also requires applicants to provide additional information requested by the Board, comply with the requirements of Chapters 421a and 423a and pay any additional cost related to background investigations of the applicant.

§ 439a.4 is a new section that specifies that a junket enterprise license is good for one year, that renewal applications must be submitted 60 days prior to the expiration of the license, and that a license for which a renewal application and fee has been received will remain in effect until the Board acts on the renewal application.

§ 439a.5 requires junket representatives to be registered and employed by a licensed junket enterprise before they can organize junkets and that a junket representative can only be employed by one junket enterprise at a time.

§ 439a.6 requires a junket representative applicant to submit a Junket Representative Registration Form and application fee. The applicant is also required to provide additional information requested by the Board and comply with the requirements of Chapters 421a and 423a. Additionally it specifies the criteria the Board will use to determine whether or not to grant the application, allows junket enterprises to file an application on behalf of an individual and specifies that registrations do not need to be renewed and are nontransferable.

§ 439a.7 requires junket schedules and changes thereto to be submitted to the Bureau of Corporate Compliance and Internal Controls. It lists the information to be included in the schedule and the timeframes for the submissions.

§ 439a.8 requires the preparation of junket arrival reports, specifies what should be in the reports and when they should be prepared and that the reports must be maintained on premises and made available for inspection.

§ 439a.9 requires preparation of junket final reports, specifies what should be in the reports and when they should be prepared and that the reports must be maintained on premises and made available for inspection.

§ 439a.10 requires the preparation of monthly junket reports, requires submission of the reports to the Bureau of Corporate Compliance and Internal and requires the reports to be maintained on premises and made available for inspection.

§ 439a.11 requires the preparation of a report pertaining to the purchase of patron lists, specifies what must be in the report and requires submission of the report to the Bureau of Corporate Compliance and Internal Controls no later than seven days after the list is received.

§ 439a.12 contains a list of activities that junket enterprises and representatives may not participate in.

Chapter 440a replaces Chapter 440 of the temporary regulations.

§ 440a.1 requires that a management company obtain a license before it provides any services and that a management company or any of its affiliates, intermediaries, subsidiaries or holding companies may not apply for or hold a manufacturer or supplier license.

§ 440a.2 requires a management company to: file the applicable Category 1, 2 or 3 slot machine license application and the applicable fee; promptly provide information requested by the Board; and comply with the requirements of Chapters 421a and 423a.

§ 440a.3 provides that management company licenses will be valid for one year, that renewal applications must be filed at least 60 days prior to expiration and that if a renewal application and fee has been received, the current license shall remain in effect until the Board acts on the renewal application.

§ 440a.4 states that the management company will be deemed to be an agent of for any violations and that the management company will be jointly and severally liable for violations of the slot machine licensee.

§ 440a.5 specifies that all management contracts and amendments must be submitted to and approved by the Board before they can go into effect. This section also requires submission of a business plan, lists a number of provisions that must be in each contract and requires contracts to clearly enumerate specific responsibilities in various areas of operation.

Affected Parties

This proposed rulemaking imposes requirements on applicants for and holders of slot machine licenses, licensed entity representative registrations, manufacturer licenses, supplier licenses, horsemen permits and registrations, labor organization permits, and management company licenses.

Fiscal Impact

Commonwealth

This proposed rulemaking will impose costs on the Board related to processing initial applications and renewals, conducting investigations and issuing licenses, permits and registrations. Where applicable, the Pennsylvania State Police will also experience costs associated with investigations of applicants.

Political Subdivisions

This proposed rulemaking will have no significant fiscal impact on political subdivisions of the Commonwealth.

Private Sector

Applicants for the various licenses, permits and registrations will incur costs to complete the applicable applications and pay the applicable application fees and additional costs associated with investigations.

General Public

This proposed rulemaking will have no significant fiscal impact on the general public.

Paperwork requirements

Applicants for and holders of licensed entity representative registrations, manufacturer licenses, supplier licenses, horsemen permits and registrations, labor organization permits, and management company licenses will be required to complete the applicable initial application and renewal forms.

Effective Date

The proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Paul Resch, Secretary, Pennsylvania Gaming Control Board, P.O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-61.

Contact Person

The contact person for questions about this proposed rulemaking is Richard Sandusky, Director of Regulatory Review, at (717) 214-8111.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 26, 2007, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

THOMAS A. DECKER,
Chairperson

ANNEX A

TITLE. 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

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CHAPTER 421a. GENERAL PROVISIONS

§ 421a.1. General requirements.

(a) A license, permit, certification or registration issuance, renewal or other approval issued by the Board is a revocable privilege. No person holding a license, permit, certification or registration, renewal, or other approval is deemed to have any property rights.

(b) By filing an application with the Board, an applicant consents to an investigation of the applicant's general suitability, financial suitability, character, integrity, and ability to engage in, or be associated with, gaming activity in this Commonwealth to the extent deemed appropriate by the Board. The investigation may include a background investigation of the applicant, employees of the applicant, all persons having a controlling interest in the applicant, and other persons as determined by the Board.

(c) By filing an application for a license, permit, certification or registration issuance, renewal or other approval from the Board, an applicant agrees to:

(1) Abide by the provisions of the act and this part.

(2) Waive liability as to the Board, its members, its employees, the Pennsylvania State Police, the Commonwealth and its instrumentalities for damages resulting from disclosure or publication in any manner, other than a willfully unlawful

disclosure or publication of material or information acquired during an investigation of the applicant.

(3) Consent to execute all releases requested by the Board.

(d) No applicant for or holder of a license, permit, certification or registration may give or offer to give, compensation or reward or a percentage or share of the money or property played or received through gaming to a public official or public employee in consideration for or in exchange for obtaining a license, permit, certification or registration issued pursuant to this part.

(e) An applicant for or holder of a license, permit, certification or registration shall have a duty to inform the Bureau of an action which the applicant for or holder of a license, permit, certification or registration believes would constitute a violation of the act. No person who so informs the Bureau may be discriminated against by an applicant for or holder of a license, permit, certification or registration for supplying the information.

(f) An applicant for a license, permit, certification or registration shall have a continuing duty to inform the Board of any changes in the information supplied to the Board in or in conjunction with the original or renewal application or a change in circumstances that may render the applicant for a license,

permit, certification or registration ineligible, unqualified or unsuitable to hold a license, permit, certification or registration under the standards and requirements of the act and of this part.

(g) An applicant for a license, permit, certification or registration shall have a continuing duty to promptly provide any information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(h) An application submitted to the Board constitutes the seeking of a privilege. An applicant shall at all times have the burden of proof. It shall be the applicant's affirmative responsibility to establish the facts supporting its suitability under the act and this part by clear and convincing evidence, including why a license, permit, certification or registration should be issued or renewed by the Board.

(i) A person holding a license, permit, certification or registration issued by the Board who violates a provision of the act or this part may be held jointly or severally liable for the violation.

(j) The Board will maintain lists of all applicants for licenses, permits, certifications or registrations under this part as well as a record of all actions taken with respect to

each applicant. The lists will be posted on the Board's website (www.pgcb.state.pa.us).

§ 421a.2. Disqualification criteria.

(a) An application for issuance or renewal of a license, permit, certification or registration may be denied, or a license, permit, certification or registration may be suspended or revoked if:

(1) The applicant has failed to prove to the satisfaction of the Board that the applicant or any of the persons required to be qualified, are in fact qualified in accordance with the act and with this part.

(2) The applicant for or holder of a license, permit, certification or registration has violated the act or this part.

(3) The applicant for or holder of a license, permit, certification or registration is disqualified under the criteria in the act.

(4) The applicant for or holder of a license, permit, certification or registration has materially departed from a representation made in the application for licensure or renewal.

(5) The applicant for or holder of a license, permit, certification or registration has failed to comply with applicable Federal or state laws or regulations.

(b) A denial of an application or nonrenewal, suspension or revocation of a license, permit, certification or registration

may be made for a sufficient cause consistent with the act and the public interest.

§ 421a.3. Investigations; supplementary information.

(a) The Board may make an inquiry or investigation concerning an applicant for or holder of a license, permit, certification or registration or any affiliate, intermediary, subsidiary or holding company of the applicant for or holder of a license, permit, certification or registration as it may deem appropriate either at the time of the initial application or at any time thereafter.

(b) It shall be the continuing duty of applicants and a holder of a license, permit, certification or registration to provide full cooperation to the Board in the conduct of an inquiry or investigation and to provide supplementary information requested by the Board.

§421a.4. Presuitability determination.

(a) Upon request from an eligible applicant for or holder of a license and upon receipt of an application and appropriate fees, the Board will make an inquiry or investigation of a potential purchaser of an applicant for or holder of a license, certification or registration as if the purchaser were an eligible applicant. The eligible applicant for or holder of a license may petition the Board, on behalf of the purchaser, for

a Statement of Investigation under § 493a.4 (relating to petitions generally).

(b) The applicant for or holder of a license making the request shall reimburse the costs associated with the inquiry or investigation upon request of the Board.

(c) This inquiry or investigation does not replace the application process required under the act and this part which is a requirement for licensure, certification or registration.

§ 421a.5. Undue concentration of economic opportunities and control.

(a) In accordance with section 1102(5) of the act (relating to legislative intent), a slot machine license, management company license or other license may not be issued to or held by a person if the Board determines that the issuance or holding will result in the undue concentration of economic opportunities and control of the licensed gaming facilities in this Commonwealth by that person.

(b) For purposes this section, undue concentration of economic opportunities and control of the licensed gaming facilities means that a person:

(1) Would have actual or potential domination of the gaming market in this Commonwealth contrary to the legislative intent.

(2) Could substantially impede or suppress competition among licensees.

(3) Could adversely impact the economic stability of the gaming industry in this Commonwealth.

(c) In determining whether the issuance or holding of a license by a person will result in undue concentration of economic opportunities and control of the licensed gaming facilities in this Commonwealth, the Board will consider the following criteria:

(1) The percentage share of the market presently controlled by the person in each of the following categories:

(i) Total number of slot machine licenses available under section 1307 of the act (relating to number of slot machine licenses).

(ii) Total gaming floor square footage.

(iii) Number of slot machines.

(iv) Gross terminal revenue.

(v) Net terminal revenue.

(vi) Total amount of money, vouchers and electronic money transfers through the use of a cashless wagering system made to slot machines.

(vii) Number of persons employed by the licensee.

(2) The estimated increase in the market share in the categories in paragraph (1) if the person is issued or permitted to hold the license.

(3) The relative position of other persons who hold licenses, as evidenced by the market share of each person in the categories in paragraph (1).

(4) The current and projected financial condition of the industry.

(5) Current market conditions, including level of competition, consumer demand, market concentration, any consolidation trends in the industry and other relevant characteristics of the market.

(6) Whether the gaming facilities held or to be held by the person have separate organizational structures or other independent obligations.

(7) The potential impact of licensure on the projected future growth and development of the gaming industry in this Commonwealth and the growth and development of the host communities.

(8) The barriers to entry into the gaming industry, including the licensure requirements of the act, and whether the issuance or holding of a license by the person will operate as a barrier to new companies and individuals desiring to enter the market.

(9) Whether the issuance or holding of the license by the person will adversely impact consumer interests, or whether the issuance or holding is likely to result in enhancing the quality and customer appeal of products and services offered by slot machine licensees to maintain or increase their respective market shares.

(10) Whether a restriction on the issuance or holding of an additional license by the person is necessary to encourage and preserve competition and to prevent undue concentration of economic opportunities and control of the licensed gaming facilities.

(11) Other evidence deemed relevant by the Board.

CHAPTER 423a. APPLICATIONS

§ 423a.1. General requirements.

(a) For the purposes of this section, a reference to an applicant includes the applicant's affiliates, intermediaries, subsidiaries and holding companies.

(b) An application shall be submitted on forms supplied or approved by the Board, shall contain all information and documents required by the Board and shall include the applicable fees.

(c) The applicant shall file with the application all supplemental forms required by the Board. The forms require full disclosure of all details relative to the applicant's

suitability to conduct business in this Commonwealth under the act.

(d) Upon request of the Board, the applicant shall further supplement any information provided in the application. The applicant shall provide all requested documents, records, supporting data and other information within the time period specified in the request, or if no time is specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period as set forth in the request, the Board may deny the application.

(e) All information provided to the Board shall be true and complete. If there is any change in the information provided to the Board, the applicant shall promptly file a written amendment in a form prescribed by the Board.

(f) The application and amendments thereto and other specific documents designated by the Board must be sworn to or affirmed by the applicant before a notary public.

(g) The Board will deny the application of an applicant that refuses to submit to a background investigation or provide requested information as required under the act.

(h) An applicant that submits a document to the Board which is in a language other than English shall also submit an English translation of the non-English language document. The

translation must include the signature, printed name, address and telephone number of the translator and a verification by the translator of the truth and accuracy of the translation. At its discretion, the Board may accept an English summary of a document in lieu of a complete translation of the document.

(i) An application that has been accepted for filing and all related materials submitted to the Board shall become the property of the Board and will not be returned to the applicant.

§ 423a.2. Preliminary submission review.

(a) Upon receipt of an application submission, the Board will review the submission to insure that it contains:

(1) The applicable application fee.

(2) The applicable application forms and any additional information and accompanying documentation required by the Act or the Board's regulations governing the specific type of application.

(3) Completed authorization forms for release of information from federal and state agencies required for the specific type of application.

(4) For slot machine license applications only, a bond or letter of credit as required by section 1313(c) of the act (relating to applicant's ability to pay license fee).

(b) If an application submission fails to include one or more of the items in subsection (a), the applicant will be

notified that the application has not been accepted for filing and the applicant will be given an opportunity to cure the insufficiency.

(c) If the applicant fails or is unable to cure the insufficiency within the time period set by the Board, the submission and related materials will be returned to the applicant.

§ 423a.3. Application processing.

(a) Upon a determination that all prerequisites for filing have been met, the Board will:

(1) Accept the application for filing.

(2) Notify the applicant or the applicant's attorney, if any, in writing of the fact that the application has been accepted for filing and the date of the acceptance for filing. The Board will also notify the applicant that the acceptance for filing of the application will not constitute evidence that any requirement of the act has been satisfied.

(3) Obtain and evaluate information as may be necessary to determine the qualifications of the applicant and any matter relating to the application.

(4) Request the Bureau to promptly conduct an investigation and provide the information necessary to determine the qualifications of the applicant and any matter relating to the application.

(5) Request the Pennsylvania State Police to provide a criminal history background investigation report, determine employee eligibility consistent with § 435.1 (relating to general provisions), conduct fingerprinting, photograph applicants and perform duties as directed by the Board.

(6) Request the Department to promptly conduct a tax clearance review.

(7) Request the Department of Labor and Industry to perform an Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review.

(8) Request any agencies, entities or persons to conduct investigations or evaluations or to provide information to the Board as deemed necessary by the Board.

(b) The Board will keep and maintain a list of all applicants under this part together with a record of all actions taken with respect to applicants.

(c) An application submitted under this part and all information obtained by the Board relating to the application shall be part of the evidentiary record of the licensing proceeding. The Board's decision to issue or deny a license shall be based solely on the evidentiary record before the Board.

§ 423a.4. Deficient applications.

(a) If an application is found to be deficient, the Board will notify the applicant of the deficiencies in the application and permit the applicant to cure the deficiencies within a time period prescribed by the Board.

(b) Refusal to provide information as required in subsection (a) may result in the immediate denial of the application.

§ 423a.5. Application withdrawal.

(a) A request for withdrawal of an application for a license, permit, certification or registration may be made by petition to the Board filed at any time prior to issuance by the Board of its determination with respect to the application.

(b) The petition must set forth the reasons for the withdrawal.

(c) An applicant may petition for the withdrawal of its application or an application submitted by one of its affiliates, intermediaries, subsidiaries or holding companies or persons or entities required to be qualified under section 1311 of the act (relating to slot machine license application business entity requirements), or both.

(d) When rendering a decision on a petition for withdrawal, the Board may set the conditions of withdrawal and may deny or grant the request with or without prejudice.

(1) If a petition for withdrawal is granted with prejudice, the person or entity whose application has been withdrawn will not be eligible to apply for a license, permit, certification or registration with the Board until after expiration of 5 years from the date of the withdrawal.

(2) If a petition for withdrawal is granted without prejudice the Board will determine when the person or entity whose application has been withdrawn may be eligible to apply for a license, permit, certification or registration.

(e) The Board may convert an incomplete application to a petition for withdrawal.

(f) Unless the Board otherwise directs, fees or other payments relating to the application will not be refundable by reason of the withdrawal. Additionally, all fees and costs owed to the Board related to the application must be paid prior to granting a petition to withdraw.

§ 423a.6. License, permit, registration and certification issuance and Statement of Conditions.

(a) Issuance criteria.

(1) In addition to the criteria contained in the act, the Board will not issue or renew a license, permit, certification or registration unless the Board finds that the following criteria have been established by the applicant:

(i) The applicant has paid all applicable fees.

(ii) The applicant has fulfilled each condition set by the Board or contained in the act, including the execution of a Statement of Conditions.

(iii) The applicant is found suitable consistent with the laws of the Commonwealth and is otherwise qualified to be issued a license, certification, permit, registration or other authorization.

(b) *Statement of conditions.*

(1) For this subsection, the term "executive officer" means the individual holding the highest ranking management position within the entity and who is authorized to contract on behalf of the entity.

(2) If the Board approves an entity's application for a license, certification or registration, or for the renewal of a license, certification or registration, the Board may require the executive officer of the entity whose application has been approved, or other competent individual designated by the entity in accordance with paragraph (3), to execute a Statement of Conditions in the manner and form required by the Board. Execution of the Statement of Conditions shall constitute the acceptance of each provision contained in the Statement of Conditions by both the entity and the executive officer. The executive officer shall ensure that the entity fully complies with each provision contained in the Statement of Conditions.

(3) Prior to the issuance of a license, certification or registration to an entity, the entity shall determine whether the entity will designate its executive officer or another competent individual with a direct reporting relationship to its executive officer to execute the Statement of Conditions on behalf of both the entity and its executive officer. If the entity elects to designate another competent individual with a direct reporting relationship to its executive officer to execute the Statement of Conditions on behalf of the entity and its executive officer, the entity shall adopt a resolution identifying the individual so designated, authorizing that individual to execute the Statement of Conditions on behalf of both the entity and its executive officer, and evidencing the executive officer's concurrence in that individual's designation. A copy of the resolution, certified as true and correct, shall be provided to the Board and attached to the Statement of Conditions.

(4) If the Board approves an individual's application for a license, permit, certification or registration, or for the renewal of a license, permit, certification or registration, the Board may require the individual whose application has been approved to execute a Statement of Conditions in the manner and form required by the Board. The execution of the Statement of Conditions shall constitute the acceptance of each provision

contained in the Statement of Conditions by the individual. The individual shall fully comply with each provision contained in the Statement of Conditions.

(5) Failure to fully comply with any provision contained in an executed Statement of Conditions shall constitute a violation of the Statement of Conditions and may result in the imposition of Board-imposed administrative sanctions, up to and including revocation, against the individual to whom the license, permit, certification or registration was issued, and, in the case of an entity, against the entity and its executive officer or other designee under § 423a.6(b)(3).

§ 423a.7. Restriction on application after denial or revocation.

(a) A person whose application has been denied or whose license, permit, registration or certification has been revoked, may not apply for a license, permit, certification or registration for 5 years from the date that the application was denied or the license, permit, certification or registration was revoked.

(b) The 5-year restriction in subsection (a) will not apply:

(1) To applicants for a slot machine license if the denial was for reasons other than unsuitability.

(2) If the denial or revocation was based on pending charges for a disqualifying offense under section 1213 or section 1518 of the act (relating to license or permit prohibition; and prohibited acts and penalties), 18 Pa.C.S. (relating to crimes and offenses) or the criminal laws of any other jurisdiction and the pending charges do not result in conviction of the disqualifying offense.

(c) Two years from the date that the application was denied or the license, permit, certification or registration was revoked, a person may file a petition for permission to apply for a license, permit, certification or registration before the expiration of the 5-year period.

(d) A petition filed under subsection (c) shall be filed in accordance with § 493a.4 (relating to petitions generally).

(e) Petitions filed under subsection (c) must contain:

(1) An explanation of how the conditions that were the basis for denial or revocation have been corrected or no longer exist.

(2) Supporting materials that demonstrate that the person meets the requirements for a license, permit, certification or registration.

(3) If the denial or revocation was the result of a conviction, the petition must include evidence of rehabilitation, such as:

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

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

(iii) The date of the offense or conduct.

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

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

(vi) Social conditions which may have contributed to the offense or conduct.

(vii) Evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision.

(viii) Evidence that all obligations for restitution, fines and penalties have been met.

(f) If a petition filed under subsection (c) is denied, a person may not file another petition under subsection (c) for 1 year from the date of the denial of the petition.

CHAPTER 425a. LICENSED ENTITY REPRESENTATIVES

§ 425a.1. Registration.

(a) A licensed entity representative shall file a completed Licensed Entity Registration Form with the Bureau of Licensing , which includes the individual's name, employer or firm, address, telephone number and the licensed entity being represented.

(b) A licensed entity representative shall update its registration information on an ongoing basis.

(c) The Board will maintain a list of licensed entity representatives. The registration list will be available for public inspection at the offices of the Board and on the Board's website (www.pgcb.state.pa.us).

CHAPTER 427a. MANUFACTURERS

§ 427a.1. Manufacturer general requirements.

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

(b) In accordance with section 1317.1 of the act (relating to manufacturer licenses), an applicant for or the holder of a manufacturer license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, may not apply for or hold a slot machine license or supplier license.

(c) A licensed manufacturer or a licensed manufacturer designee may supply or repair any slot machine or associated equipment manufactured by the licensee.

(d) A licensed manufacturer may contract with a slot machine licensee or a licensed supplier to supply or repair slot machines or associated equipment manufactured by the manufacturer licensee.

(e) No limitation shall be placed on the number of manufacturer licenses issued or when an application for a manufacturer license may be filed.

§ 427a.2. Manufacturer license applications and standards.

(a) An applicant for a manufacturer license shall submit:

(1) An original and three copies of the Manufacturer Application and Disclosure Information Form.

(2) A nonrefundable application fee.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).

(4) An application from every key employee under § 435.3 (relating to key employee license) and principal under § [inset Joe's new chapter] (relating to principal license) as specified by the Manufacturer Application and Disclosure Information Form or as determined by the Board.

(5) If applicable, copies of all filings required by the Securities and Exchange Commission during the 2 immediately preceding fiscal years, including all annual reports filed with the Securities Exchange Commission, under sections 13 or 15D of the Securities Exchange Act of 1934 (15 U.S.C.A. § § 78m and 78o-6), quarterly reports filed with the Securities Exchange Commission, under sections 13 or 15D of the Securities Exchange Act of 1934, current reports filed with the Securities Exchange Commission, under sections 13 or 15D of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.

(6) An affirmation that neither the applicant nor any of its affiliates, intermediaries, subsidiaries or holding companies, holds any direct or indirect ownership interest in any applicant for or holder of a slot machine license or supplier license, or employs, directly or indirectly, any person who satisfies the definition of a principal or key employee of a slot machine applicant or licensee or supplier applicant or licensee. In applying this provision to an applicant for a manufacturer license, the Board will not include interests that are held by individuals in any of the following manners:

(i) In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the applicant or licensee and provided that the mutual fund

is not a nondiversified fund invested primarily in entities operating in, or connected with, the gaming industry.

(ii) Through defined benefit pension plans.

(iii) Through deferred compensation plans organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).

(iv) In blind trusts over which the holder may not exercise any managerial control or receive income during the time period the holder is subject to these provisions.

(v) Through tuition account plans organized and operated under section 529 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 529).

(vi) Through plans described in section 401(k) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 401(k)).

(vii) An interest held by a spouse if an action seeking a divorce and dissolution of marital status has been initiated in any jurisdiction by either party to the marriage.

(7) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence) and a copy the safeguards and policies.

(b) In addition to the materials required under subsection (a), an applicant for a manufacturer license shall:

(1) Promptly provide any information requested by the Board relating to the manufacturer's application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(3) Demonstrate that the applicant has the ability to manufacture, build, rebuild, repair, fabricate, assemble, produce, program, design or otherwise make modifications to slot machines or associated equipment which meet one or more of the following criteria:

(i) Are specifically designed for use in the operation of a slot machine.

(ii) Are needed to conduct an authorized game.

(iii) Have the capacity to affect the outcome of the play of a game.

(iv) Have the capacity to affect the calculation, storage, collection, or control of gross terminal revenue.

(c) An applicant for a manufacturer license will be required to reimburse the Board for any additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

(d) In determining whether an applicant is suitable to be licensed as a manufacturer under this section, the Board will consider the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) If all principals of the applicant individually qualify under the standards of section 1317.1 of the act.

(3) The integrity of all financial backers.

(4) The suitability of the applicant and all principals and key employees of the applicant based on the satisfactory results of:

(i) The background investigation of all principals and key employees.

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

§ 427a.3. Manufacturer license term and renewal.

(a) A manufacturer license or renewal shall be valid for 1 year from the date on which the license or renewal is approved by the Board.

(b) A renewal application and renewal fee shall be filed at least six months prior to the expiration of the current license.

(c) A manufacturer license for which a completed renewal application and fee has been received by the Board will continue in effect for an additional six-month period or until acted upon by the Board, whichever occurs first.

§ 427a.4. Alternative manufacturer licensing standards.

(a) If an applicant for a manufacturer license holds a similar license in another jurisdiction in the United States, the applicant may submit a written request with its application required under § 427a.2(a) for the Board to adopt an abbreviated licensing process under section 1319 of the act (relating to alternative manufacturer licensing standards) to review a manufacturer license application.

(b) The Board may use the abbreviated process if:

(1) The Board determines, after investigation, that the licensing standards in the jurisdiction in which the applicant is licensed are similarly comprehensive, thorough and provide equal, if not greater, safeguards as provided in the act and that granting the request is in the public interest.

(2) The applicant has provided a copy of its most recent application or renewal for the similar license in the other jurisdiction and a copy of the license or the order issued by the other jurisdiction granting the license.

(3) The applicant has no administrative or enforcement actions pending in another jurisdiction or the applicant has

adequately disclosed and explained the action to the satisfaction of the Board.

(4) There are no pending or ongoing investigations of possible material violations by the applicant in another jurisdiction or the applicant has adequately disclosed and explained the investigation to the satisfaction of the Board.

(c) This section may not be construed to waive fees associated with obtaining a license through the application process in this Commonwealth.

§ 427a.5. Responsibilities of a manufacturer.

(a) A holder of a manufacturer license shall have a continuing duty to:

(1) Provide any information requested by the Board relating to the manufacturer's licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with all conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(2) Report a change in circumstances that may render the holder of a manufacturer license ineligible, unqualified or unsuitable to hold a license under the standards and requirements of the act and of this part.

(3) Provide a copy of all Securities and Exchange Commission filings listed in § 427a.2(a)(5) that are filed after

the date of issuance of its license. The copy shall be submitted no later than 30 days after the date of filing with the Securities and Exchange Commission.

(b) An employee of a licensed manufacturer whose duties of employment or incidental activities related to employment require the employee to be on the gaming floor or in a restricted area shall be required to obtain an occupational permit under § 435.4 (relating to occupational permit).

(c) A slot machine licensee may service or repair slot machines or associated equipment at its licensed facility pursuant to a written agreement between the slot machine licensee and the manufacturer licensee that provided the slot machines or associated equipment at the licensed facility.

(d) A slot machine licensee may perform routine maintenance directly related to the availability of slot machines for play, customer service or a clean and gracious playing environment. The routine maintenance includes installation or replacement of the following: batteries, hardware, including hinges, screws, bolts and custom handles, light bulbs, locks on slot machines and slot cash storage boxes, including the rekeying of the locks, printers, exclusive of printer software and paper stock. Routine maintenance also includes external cleaning and the clearing of paper, bill and coin jams which do not require removal or dismantling of the mechanisms.

CHAPTER 431a. SUPPLIER LICENSES

§ 431a.1. Supplier general requirements.

(a) A supplier seeking to sell, lease, offer or otherwise provide, distribute or service slot machines or associated equipment to a slot machine licensee within this Commonwealth through a contract with a licensed manufacturer shall apply to the Board for a supplier license.

(b) In accordance with sections 1317 and 1317.1 of the act (relating to supplier licenses; and manufacturer licenses), an applicant for or the holder of a supplier license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, may not apply for or hold a slot machine license or a manufacturer license.

(c) No limitation shall be placed on the number of supplier licenses issued or when an application for a supplier license may be filed.

§ 431a.2. Supplier license applications and standards.

(a) An applicant for a supplier license shall submit:

(1) An original and three copies of the Supplier Application and Disclosure Information Form for the applicant and each of the applicant's affiliated entities.

(2) A nonrefundable application fee.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).

(4) An application from every key employee under § 435.3 (relating to key employee license) and principal under § [Insert Joe's new chapter] (relating to principal license) as specified by the Supplier Application and Disclosure Information Form or as determined by the Board

(5) If applicable, copies of all filings required by the United States Securities and Exchange Commission during the 2 immediately preceding fiscal years, including all annual reports filed under section 13 or section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a and 78o(d)), quarterly reports filed under section 13 or section 15(d) of the Securities Exchange Act of 1934, current reports filed under section 13 or section 15(d) of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.

(6) An affirmation that neither the applicant nor any of its affiliates, subsidiaries, intermediaries and holding companies holds any direct or indirect ownership interest in an applicant for or holder of a manufacturer license or slot machine licensee, or employs, directly or indirectly, any person who satisfies the definition of a principal or key employee of a

manufacturer or slot machine applicant or licensee. In applying this provision to an applicant for a supplier license, the Board will not include interests that are held by individuals in any of the following manners:

(i) In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the manufacturer or slot machine applicant or licensee and provided that the mutual fund is not a nondiversified fund invested primarily in entities operating in, or connected with, the gaming industry.

(ii) Through defined benefit pension plans.

(iii) Through deferred compensation plans organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).

(iv) In blind trusts over which the holder may not exercise any managerial control or receive income during the time period the holder is subject to these provisions.

(v) Through tuition account plans organized and operated under section 529 of the Internal Revenue Code (26 U.S.C.A. § 529).

(vi) Through plans described in section 401(k) of the Internal Revenue Code (26 U.S.C.A. § 401(k)).

(vii) An interest held by a spouse if an action seeking a divorce and dissolution of marital status has been initiated in any jurisdiction by either party to the marriage.

(7) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence) and a copy the safeguards and policies.

(b) In addition to the materials required under subsection (a), an applicant for a supplier license shall:

(1) Promptly provide any information requested by the Board relating to the supplier's application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(3) Demonstrate that the applicant has or will establish a principal place of business in this Commonwealth.

(c) An applicant for a supplier license shall be required to reimburse the Board for any additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

(d) In determining whether an applicant is suitable to be licensed as a supplier under this section, the Board will consider the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) If all principals of the applicant individually qualify under the standards of section 1317 of the act.

(3) The integrity of all financial backers.

(4) The suitability of the applicant and all principals and key employees of the applicant based on the satisfactory results of:

(i) A background investigation of all principals and key employees.

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

§ 431a.3. Supplier license term and renewal.

(a) A supplier license or renewal shall be valid for 1 year from the date on which the license or renewal is approved by the Board.

(b) A renewal application and renewal fee shall be filed at least two months prior to the expiration of the current license.

(c) A supplier license for which a completed renewal application and fee has been received by the Board will continue in effect for an additional six-month period or until acted upon by the Board, whichever occurs first.

§ 431a.4. Responsibilities of a supplier.

(a) Within 1 year of the Board's issuance of a supplier license, the supplier shall establish and maintain a principal place of business in this Commonwealth.

(b) At the time of licensure, a supplier shall have assets or available lines of credit to support the sale, financing, servicing or repair of all slot machines to be placed in service or repaired by the supplier. The assets and available lines of credit shall be from a source independent of slot machine manufacturers and licensed gaming entities. Notwithstanding the forgoing, a licensed manufacturer may extend financing or payment terms to a licensed supplier, at prevailing market rates and terms, for the acquisition or leasing of slot machines, to be secured by the slot machines sold, leased or transferred.

(c) A supplier shall submit to the Board for review any agreements with a licensed manufacturer or with a slot machine licensee and detailed business plans. The Board's review may include, but not be limited to, financing arrangements, inventory requirements, warehouse requirements, warehouse space, technical competency, compensative agreements and other terms or

conditions to ensure the financial independence of the licensed supplier from any licensed manufacturer or licensed gaming entity.

(d) A holder of a supplier license shall have a continuing duty to:

(1) Provide any information requested by the Board relating to licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with all conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(2) Report a change in circumstances that may render the holder of a supplier license ineligible, unqualified or unsuitable to hold a license under the standards and requirements of the act and of this part.

(3) Provide a copy of all Securities and Exchange Commission filings listed in § 427a.2(a) (5) that are filed after the date of issuance of its license. The copy shall be submitted no later than 30 days after the date of filing with the Securities and Exchange Commission.

(e) An employee of a licensed supplier whose duties of employment or incidental activities related to employment allow the employee access to slot machines or associated equipment or require the employee to be on the gaming floor or in a

restricted area shall be required to obtain an occupational permit under § 435.4 (relating to occupational permit).

(f) A slot machine licensee may service or repair slot machines or associated equipment at its licensed facility pursuant to a written agreement between the licensed gaming entity and the supplier licensee that provided the slot machines or associated equipment for use or play at the licensed facility.

(g) A slot machine licensee may perform routine maintenance directly related to the availability of slot machines for play, customer service or a clean and gracious playing environment. The routine maintenance includes installation or replacement of the following: batteries, hardware, including hinges, screws, bolts and custom handles, light bulbs, locks on slot machines and slot cash storage boxes, including the rekeying of the locks, printers, exclusive of printer software and paper stock. Routine maintenance also includes external cleaning and the clearing of paper, bill and coin jams which do not require removal or dismantling of the mechanisms.

(h) A licensed manufacturer or a manufacturer's designee may supply, install, service or repair slot machines or associated equipment manufactured by the licensed manufacturer.

§ 431a.5. Supplier log books.

(a) A supplier licensee shall maintain a log book to register all individuals who enter the licensee's principal place of business and each physical facility utilized by the licensee to house inventory, replacement parts, supplies, transportation or delivery equipment.

(b) The supplier licensee shall record or cause to be recorded in the log book the following:

(1) The date, entrance time and departure time of each individual.

(2) The name of each individual entering the place of business or physical facility and who they represent.

(3) The signature of each individual.

(4) The purpose for the visit.

(5) If applicable, the individual's Board license, permit, certification or registration number.

(c) Licensed, permitted or registered employees of a supplier are not required to register in the log book.

(d) Each log book required by this section shall be maintained at the entrance of the location to which it pertains and shall be made readily accessible for examination and inspection upon the demand of any agent, employee or representative of the Board, the Department of Revenue or the Pennsylvania State Police.

CHAPTER 436a. HORSEMEN'S ORGANIZATIONS

§ 436a.1. Definitions.

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

Fiduciary – A person who is entrusted by a horsemen's organization or its members to hold or manage any funds received for horsemen under section 1406 of the act (relating to distributions from Pennsylvania Race Horse Development Fund) or who exercises control or discretionary authority over selection or management of a health or pension benefit plan, disposition of its assets or distribution of its funds.

Health benefits – A plan, fund or program which is maintained by a horsemen's organization and that provides healthcare benefits to horsemen at licensed racetracks, their families and employees, and others designated by the rules and eligibility requirements of the organization consistent with the act.

Horsemen – A thoroughbred or standardbred horse owner or trainer who enters and runs a horse at a licensed racing entity in the current or prior calendar year and meets the membership requirements of a horsemen's organization to participate in the receipt of benefits there from.

Horsemen's organization – A trade association which represents the majority of horsemen at a licensed racetrack and

which exists for the purpose, in whole or in part, of negotiating a horsemen's contract and resolving grievances, disputes or other matters with management of a licensed racing entity, as defined by section 1103 of the act (relating to definitions).

Horsemen's organization officer – An officer or person authorized to perform the functions of president, vice president, secretary/treasurer or other executive function of a horsemen's organization, and any member of its board of directors or similar governing body.

Horsemen's organization representative – A person, compensated or not, who is authorized to represent a horsemen's organization or members thereof in matters relating to horsemen's agreements with a licensed racing entity, or who undertakes on behalf of a horsemen's organization or members thereof to promote, facilitate or otherwise influence the relations between a horsemen's organization and a licensed racing entity.

Pension benefits – Any plan, fund or program which is maintained by a horsemen's organization and that funds a program which provides retirement income to horsemen at licensed racetracks, their families and employees, and any others so designated by the rules and eligibility requirements of the organization consistent with the act.

§ 436a.2. Horsemen's organization registration.

(a) Each horsemen's organization or affiliate representing horsemen shall register with the Board in accordance with this section.

(b) Each horsemen's organization shall file a completed Horsemen's Organization Registration Statement with the registration fee established by the Board.

(c) Horsemen's organization applicants and registrants shall be subject to the general application requirements of Chapters 421a and 423a (relating to general provisions; and applications).

(d) Horsemen's organization registrations shall be valid for 4 years from the date on which the registration is approved by the Board. Renewals shall be valid for 4 years and shall be filed no later than 120 days prior to the expiration of the current registration period. A registration for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the horsemen's organization that the Board has approved or denied the renewal of the registration.

§ 436a.3. Permitting of officers, directors, representatives and fiduciaries.

(a) Every officer, director or representative of a horsemen's organization who is currently elected or appointed

and authorized to act on behalf of the horsemen's organization, or any individual authorized to act in a fiduciary capacity on behalf of horsemen shall be permitted in accordance with this section.

(b) Every officer, director or representative of a horsemen's organization who is currently elected or appointed and authorized to act on behalf of the horsemen's organization, or any individual authorized to act in a fiduciary capacity on behalf of horsemen shall file a completed Horsemen's Permit Application Form with the permit fee established by the Board.

(c) Applicants and permittees under this section shall be subject to the general application requirements of Chapters 421 and 423 (relating to general provisions; and applications).

(d) Permits issued under this section shall be valid for 1 year from the date on which the permit is approved by the Board. Renewals shall be valid for 1 year and shall be filed at least 60 days prior to the expiration of the current permit. A permit for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the permittee that the Board has approved or denied the renewal of the permit.

(e) If a current officer, director or representative of a horsemen's organization is denied a permit required by this section, that officer, director or representative shall be

precluded from engaging in any activity of the horsemen's organization involving gaming funds allocated to, received by, or distributed from the horsemen's organization.

(f) A person who is a third-party provider of a health or pension benefit plan to a horsemen's organization shall be exempt from the requirements of this section. A licensed attorney or accountant representing a horsemen's organization who does not meet the conditions in subsection (a) shall also be exempt this section.

§ 436a.4. Responsibilities of horsemen's organizations, officers, directors, representatives and fiduciaries.

(a) Horsemen's organizations, officers, directors, representatives and fiduciaries shall ensure that all funds allocated to the horsemen and horsemen's organizations are used for the benefit of all horsemen of this Commonwealth.

(b) Funds allocated to horsemen's organizations for benevolent programs are not to be used for the personal benefit of any officer, director, representative or fiduciary of a horsemen's organization except to the extent that the officer, director, representative or fiduciary of the horsemen's organization is a participant in the benevolent programs on the same basis as other eligible program participants.

(c) Horsemen's organizations shall maintain adequate records of receipts and distributions of all funds allocated to them under the act.

(d) By March 30 of each calendar year, each horsemen's organization shall file with the Board two copies of its audited financial statements together with any management letters or reports written thereon as prepared by its independent auditor. These filings will be available for public inspection during the normal operating hours of the Board at its Harrisburg office.

§ 436a.5. Fiduciaries.

Fiduciaries shall:

(1) Ensure that all funds received for the benefit of the horsemen are distributed pursuant to the act.

(2) Manage all health and pension benefit plans for the exclusive benefit of participants and beneficiaries.

(3) Carry out their duties in a prudent manner and refrain from conflict-of-interest transactions.

(4) Comply with any limitations on certain plans' investments in particular securities and properties.

(5) Fund benefits in accordance with applicable law and plan rules.

(6) File quarterly reports with the Board within 20 days of the end of each calendar quarter. The reports must detail the

expenditure of funds designated by the act for the benefit of horsemen and be in a format and manner designated by the Board.

(7) Provide documents to the Board as may be requested in the conduct of investigations or to ensure compliance with the act and this chapter.

§ 436a.6. Health and pension benefit plans.

(a) Contracts for health and pension benefit plans established for the benefit of members of a horsemen's organization must:

(1) Be submitted to the Board for review at least 90 days prior to the proposed effective date of the contract.

(2) Not be effective until approved by the Board.

(b) Administrative and overhead costs incurred by the horsemen's organization for the administration of health and pension benefit plans must be reasonable. Administrative costs that do not exceed 15% of the statutory allocation are considered reasonable.

CHAPTER 438a. LABOR ORGANIZATIONS

§ 438a.1. Definitions.

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

Labor organization – An organization, union, agency, employee representation committee, group, association, or plan

in which employees participate which exists for the purpose, in whole or in part, of dealing with a slot machine licensee or licensed management company concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, including any conference, general committee, joint or systems board or international labor organization.

Labor organization agent – A person, compensated or not, who is authorized to represent a labor organization in an employment matter relating to employees who are employed by a slot machine licensee or licensed management company, or who undertakes on behalf of the labor organization to promote, facilitate or otherwise influence the relations between the labor organization and a slot machine licensee or licensed management company.

Labor organization officer – An officer or person authorized to perform the functions of president, vice president, secretary/treasurer or other executive function of a labor organization, and a member of its executive board or similar governing body who exercises authority, discretion or influence with regard to matters relating to employees who are employed at a licensed facility.

Labor organization management employee – An employee of a labor organization who serves in a management, supervisory or

policy making position, who exercises authority, discretion or influence with regard to matters relating to employees who are employed at a licensed facility.

§ 438a.2. Labor organization notification.

(a) Each labor organization shall file a completed Labor Organization Notification Form in a format prescribed by the Board.

(b) Labor organizations shall file an updated version of the Labor Organization Notification Form within 30 days of a change in the information contained on the form.

§ 438a.3. Permitting of labor organization officers, agents and management employees.

(a) Every labor organization officer, agent and management employee shall be permitted in accordance with this section.

(b) Every labor organization officer, agent and management employee shall file a completed Labor Organization Permit Application Form with the permit fee established by the Board.

(c) Applicants and permittees under this section shall be subject to the general application requirements of Chapters 421 and 423 (relating to general provisions and applications).

(d) Permits issued under this section will be valid for 1 year from the date on which the permit is approved by the Board. Renewals will be valid for 1 year and shall be filed no later than 60 days prior to the expiration of the current permit. A

permit for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the permittee that the Board has approved or denied the renewal of the permit.

CHAPTER 439a. JUNKET ENTERPRISES

§ 439a.1. Definitions.

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

Junket —

(i) An arrangement made between a slot machine licensee and a junket enterprise or a junket representative, the purpose of which is to induce a person, selected or approved, to come to a licensed facility for the purpose of gambling and pursuant to which, and as consideration for which, some or all of the cost of transportation, food, lodging and entertainment for that person is directly or indirectly paid by a slot machine licensee. The person shall be selected or approved on the basis of one or more of the following:

(A) The ability to satisfy a financial qualification obligation related to the person's ability or willingness to gamble, which shall be deemed to occur whenever a person, as an element of the arrangement is required to perform one or more of the following:

(I) Establish a customer deposit with a slot machine licensee.

(II) Demonstrate to a slot machine licensee the availability of a specified amount of cash or cash equivalent.

(III) Gamble to a predetermined level at the licensed facility.

(IV) Comply with any similar obligation.

(B) The propensity to gamble, which shall be deemed to occur whenever a person has been selected or approved on the basis of one or more of the following:

(I) The previous satisfaction of a financial qualification obligation in accordance with the provisions of clause (A).

(II) An evaluation that the person has a tendency to participate in gambling activities as the result of:

(a) An inquiry concerning the person's tendency to gamble.

(b) Use of other means of determining that the person has a tendency to participate in gambling activities.

(ii) A rebuttable presumption that a person has been selected or approved for participation in an arrangement on a basis related to the person's propensity to gamble shall be created whenever the person is provided, as part of the arrangement, with one or more of the following:

(A) Complimentary accommodations.

(B) Complimentary food, entertainment or transportation which has a value of \$200 or more.

Junket enterprise – A person, other than a slot machine licensee, who employs or otherwise engages the services of a junket representative in connection with a junket to a licensed facility, regardless of whether or not the activities occur within this Commonwealth.

Junket representative –

(i) A natural person who negotiates the terms of, engages in the referral, procurement or selection of persons who may participate in a junket to a licensed facility, regardless of whether or not those activities occur within this Commonwealth.

(ii) A gaming employee of a slot machine licensee who performs the duties and functions listed in subparagraph (i) for the licensed facility is not a junket representative.

§ 439a.2. Junket enterprise general requirements.

(a) A slot machine licensee seeking to conduct business with a junket enterprise or a junket enterprise seeking to conduct business with a slot machine licensee shall file a Junket Enterprise License Form with the Board.

(b) A junket enterprise shall be licensed as a junket enterprise prior to a slot machine licensee permitting a junket involving that junket enterprise to arrive at its licensed

facility. A junket enterprise shall be considered ``involved'' in a junket to a licensed facility if it receives any compensation whatsoever from any person as a result of the conduct of the junket. A slot machine licensee may not engage the services of any junket enterprise which has not been licensed.

(c) A junket enterprise may not employ or otherwise engage the services of a junket representative except in accordance with § 439a.5 (relating to junket representative general requirements).

§ 439a.3. Junket enterprise license applications.

(a) A Junket Enterprise License Form shall be submitted by a slot machine licensee or junket enterprise applicant with a verification provided by the slot machine licensee that the junket enterprise's services will be utilized at the licensed facility.

(b) In addition to the Junket Enterprise License Form, an applicant for a junket enterprise license shall submit:

(1) A nonrefundable application fee.

(2) A Junket Enterprise License Form for any principal that is an entity, and for each affiliate, intermediary, subsidiary and holding company of the applicant.

(3) A Junket Enterprise Representative Registration for each principal who is a natural person and for each key employee.

(c) In addition to the materials required under subsections (a) and (b), an applicant for a junket enterprise license shall:

(1) Promptly provide any information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(d) An applicant for a junket enterprise license will be required to reimburse the Board for any additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

§ 439a.4. Junket enterprise license term and renewal.

(a) A junket enterprise license issued under this chapter shall be valid for 1 year from the date of Board approval.

(b) A renewal application shall be submitted to the Board at least 60 days prior to the expiration of a junket enterprise license.

(c) A junket enterprise license for which a completed renewal application and fee has been received by the Board will

continue in effect until the Board sends written notification to the holder of the junket enterprise license that the Board has approved or denied the junket enterprise license.

§ 439a.5. Junket representative general requirements.

(a) A person may not act as a junket representative in connection with a junket to a licensed facility unless the person has been registered as a junket representative and is employed by a junket enterprise that has been licensed by the Board.

(b) A junket representative may only be employed by one junket enterprise at a time. For the purposes of this section, to qualify as an employee of a junket enterprise, a junket representative shall:

(1) Receive all compensation for his services as a junket representative within this Commonwealth through the payroll account of the junket enterprise.

(2) Exhibit other appropriate indicia of genuine employment, including Federal and State taxation withholdings.

§ 439a.6. Junket representative registration.

(a) A natural person applying for a junket representative registration shall submit:

(1) A Junket Representative Registration Form.

(2) A nonrefundable application fee.

(b) In addition to the materials required under subsection (a), an applicant for a junket representative registration shall:

(1) Promptly provide any information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) After review of the information submitted under subsections (a) and (b), including a background investigation, the Board may issue a junket representative registration if the individual has proven that he is a person of good character, honesty and integrity and is qualified to hold a junket representative registration.

(d) An individual who wishes to receive a junket representative registration under this chapter may provide the junket enterprise with written authorization to file an application on the individual's behalf.

(e) A junket representative registration issued under this section does not require renewal and is nontransferable.

§ 439a.7. Junket schedules.

(a) A junket schedule shall be prepared by a slot machine licensee for each junket that is arranged through a junket enterprise or its junket representative.

(b) A junket schedule shall be filed with the Bureau of Corporate Compliance and Internal Controls by a slot machine licensee by the 15th day of the month preceding the month in which the junket is scheduled. If a junket is arranged after the 15th day of the month preceding the arrival of the junket, an amended junket schedule shall be filed with the Bureau of Corporate Compliance and Internal Controls by the slot machine licensee by the close of the next business day.

(c) Junket schedules shall be certified by an employee of the slot machine licensee and shall include:

- (1) The origin of the junket.
- (2) The number of participants in the junket.
- (3) The arrival time and date of the junket.
- (4) The departure time and date of the junket.
- (5) The name and registration number of all junket representatives and the name and license number of all junket enterprises involved in the junket.

(d) Any change in the information which occurs after the filing of a junket schedule or amended junket schedule with the Bureau of Corporate Compliance and Internal Controls shall be reported in writing to the Bureau of Corporate Compliance and

Internal Controls by the slot machine licensee by the close of the next business day. These changes, plus any other material change in the information provided in a junket schedule, shall also be noted on the arrival report.

§ 439a.8. Junket arrival reports.

(a) A junket arrival report shall be prepared by a slot machine licensee for each junket arranged through a junket enterprise or its junket representative with whom the slot machine licensee does business.

(b) Junket arrival reports shall:

(1) Include a junket guest manifest listing the names and addresses of the junket participants.

(2) Include information required under § 439a.7 (relating to junket schedules) that has not been previously provided to the Bureau of Corporate Compliance and Internal Controls in a junket schedule pertaining to the particular junket, or an amendment thereto.

(3) Be certified by an employee of the slot machine licensee.

(c) Junket arrival reports shall be prepared by a slot machine licensee in compliance with the following:

(1) A junket arrival report involving complimentary accommodations shall be prepared within 12 hours of the arrival of the junket participant.

(2) A junket arrival report involving complementary services that does not involve complementary accommodations shall be filed by 5 p.m. of the next business day following arrival. A junket arrival which occurs after 12 a.m. but before the end of the gaming day shall be deemed to have occurred on the preceding calendar day.

(3) Junket arrival reports shall be maintained on the premises of the licensed facility and made available to the Board for inspection during normal business hours.

§ 439a.9. Junket final reports.

(a) A junket final report shall be prepared by a slot machine licensee for each junket for which the slot machine licensee was required to prepare either a junket schedule or a junket arrival report.

(b) A junket final report must include the actual amount of complimentary services provided to each junket participant.

(c) A junket final report shall:

(1) Be prepared within 7 days of the completion of the junket.

(2) Be maintained on the premises of its licensed facility and made available to the Board for inspection during normal business hours.

§ 439a.10. Monthly junket reports.

(a) Each slot machine licensee shall, on or before the 15th day of the month, prepare and file with the Bureau of Corporate Compliance and Internal Controls a monthly junket report listing the name and registration number of each person who performed the services of a junket representative during the preceding month.

(b) Copies of the monthly junket reports shall be maintained by the slot machine licensee on the premises of its licensed facility and made available to the Board for inspection during normal business hours.

§ 439a.11. Purchase of patron lists.

(a) Each slot machine licensee, junket representative and junket enterprise shall prepare and maintain a report with respect to each list of names of junket patrons or potential junket patrons purchased from or for which compensation was provided to any source whatsoever.

(b) The report required by subsection (a) must include:

(1) The name and address of the person or enterprise selling the list.

(2) The purchase price paid for the list or any other terms of compensation related to the transaction.

(3) The date of purchase of the list.

(c) The report required by subsection (a) must be filed with the Bureau of Corporate Compliance and Internal Controls,

no later than 7 days after the receipt of the list by the purchaser.

§ 439a.12. Junket enterprise and representative prohibitions.

A junket enterprise or junket representative may not:

- (1) Engage in collection efforts.
- (2) Individually receive or retain any fee from a patron for the privilege of participating in a junket.
- (3) Pay for any services, including transportation or other items of value, provided to or for the benefit of any patron participating in a junket, unless otherwise disclosed to and approved by the Board.
- (4) Extend credit to or on behalf of any patron participating in a junket.

CHAPTER 440a. MANAGEMENT COMPANIES

§ 440a.1. General requirements.

(a) A management company shall be required to obtain a management company license from the Board prior to providing any service to a slot machine applicant or licensee under this chapter.

(b) An applicant for or holder of a management company license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, may not apply for or hold a manufacturer or supplier license.

§ 440a.2. Applications.

(a) An applicant for a management company license shall file:

(1) A completed applicable Category 1, Category 2 or Category 3 slot machine license application and disclosure information forms with the applicable appendices as if the management company license applicant were an affiliated entity of the slot machine applicant or licensee.

(2) A nonrefundable application fee.

(b) In addition to the materials required under subsection (a), an applicant for a management company license shall:

(1) Promptly provide any information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

§ 440a.3. Management company license and term and renewal.

(a) A management company license issued under this chapter shall be valid for 1 year from the date of Board approval.

(b) A renewal application shall be submitted to the Board at least 60 days prior to the expiration of a management company license.

(c) A management company license for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the holder of the management company license that the Board has approved or denied the management company license.

§ 440a.4. Management company responsibilities.

(a) Notwithstanding any provision to the contrary in a management contract, a management company will be deemed to be an agent of the slot machine licensee for purposes of imposing liability for any act or omission of the management company in violation of the act or this part.

(b) Notwithstanding any provision to the contrary in a management contract, a management company shall be jointly and severally liable for any act or omission by the slot machine licensee in violation of the act or this part, regardless of actual knowledge by the management company of the act or omission.

§ 440a.5. Management contracts.

(a) A management contract between a slot machine applicant or licensee and management company licensee may not become effective until the Board has reviewed and approved the terms and conditions of the management contract.

(b) A management company licensee shall submit any amendment to a management contract 30 days prior to the

effective date of the proposed amendment. The amendment may not become effective until the Board has reviewed and approved the terms and conditions of the amendment.

(c) A management contract or amendment will not be approved by the Board unless the management company proves by clear and convincing evidence that the approval of the contract would not create a monopoly on the control of licensed gaming facilities in this Commonwealth. A management company that seeks Board approval of a management contract shall disclose its financial interests in the slot machine licensee or applicant and, if applicable, proposed or contemplated changes in ownership or control of a slot machine licensee

(d) Requests for approval of a management contract must include a business plan which sets forth the parties' goals and objectives for the term of the management contract.

(e) A management contract, submitted to the Board for approval, must contain the following:

(1) A provision that provides the grounds and mechanisms for modifying or terminating the contract.

(2) A provision that states that the contract will not be effective unless it is approved by the Board.

(3) A provision that describes with particularity the method of compensating and reimbursing the management company.

(4) Provisions that contain a mechanism to resolve patron disputes and disputes between the slot machine licensee and the management company.

(5) A provision that indicates whether and to what extent contract assignments and subcontracting are permissible.

(6) A provision that specifies the duration of the management contract. A management contract may not contain a provision that provides for the automatic renewal of the management contract.

(f) A management contract submitted for Board review and approval must enumerate with specificity the responsibilities of the slot machine applicant or licensee and management company under the terms and conditions of the management contract. At a minimum, the terms should address whether, and to what extent, the management company is involved in the following:

(1) Operation of the following departments:

(i) Information technology.

(ii) Internal audit.

(iii) Slot accounting.

(iv) Slot management.

(v) Security.

(vi) Surveillance.

(2) Design, construction, improvement or maintenance, or both, of the licensed facility.

(3) Provision of operating capital and financing for the development of the licensed facility.

(4) Payment of the slot machine license fee.

(5) Purchase or lease of slot machines or associated equipment.

(6) Design, implementation or amendment, or both, of the system of internal controls required under section 1322 of the act (relating to slot machine accounting controls and audits) and this part including the financial reporting requirements.

(7) Hiring, terminating, training and promoting of employees and the employment practices attendant thereto.

(8) The payment of local, State and Federal taxes and slot machine license deposit required pursuant to the act and this part and any penalties imposed by the Board for violations thereof.

(9) Advertising, player incentive or marketing programs.

(10) Compliance with section 1325(b)(1) of the act (relating to license or permit issuance).

(11) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage.

(12) Procurement of vendors and junkets.

(13) Selection of the licensed facility's independent auditor.

(g) Notwithstanding subsections (a)–(f), a slot machine licensee and licensed management company may not contract for the delegation of any benefits, duties or obligations specifically granted to or imposed upon the slot machine licensee by the act.

SUMMARY OF PGCB APPLICATIONS AS OF FEBRUARY 20, 2007

	Approved for Licensure	Denied	Withdrawn	Pending	Consolidated	Not Accepted	Permitted	Petition for Withdraw	Request to Surrender License	Total
Category 1	6	0	0	0	0	0	0	0	0	6
Category 2	5	8	1	0	0	3	0	0	0	17
Category 3	0	0	2	0	0	0	0	0	0	2
Horseman's Organization	0	0	0	3	0	0	0	0	0	3
Management Company	0	3	1	1	0	0	0	0	0	5
Manufacturer	14	0	2	8	0	1	0	0	0	25
Supplier	17	0	2	1	1	1	0	1	1	24
Vendor Certified	0	0	0	125	0	0	0	0	0	125
Vendor Registered	0	0	0	376	0	0	0	0	0	376
Junkets	0	0	0	0	0	0	0	0	0	0
Labor Organizations	0	0	0	0	0	0	0	0	0	0
Licensed Entity Reps	0	0	0	117	0	0	0	0	0	0
Total	42	11	8	631	1	5	0	1	1	583

SUMMARY OF GAMING EMPLOYEE PERMITS AND NONGAMING EMPLOYEE REGISTRATIONS AS OF 2/21/07

	GAMING PERMITS	NONGAMING REGISTRATIONS	GRAND TOTALS
SUBMITTED	2454	2755	5209
APPROVED	1872	1975	3847

LICENSE, PERMIT, CERTIFICATION, REGISTRATION AND APPLICATION FEES

License, Permit, Certification and Registration Fees (payable at the time of licensing, registration, certification or permitting)			Application Fees-Investigation Deposits (payable at the time of application)					
	1st Year	Renewal	*Applicant	**Affiliated Entities	*Principal/Key Employee	*Principal/Key Employee Waiver	* Employee (Gaming)	Employee (Non Gaming Registrant)
Frequency		Annual	Annual		Annual	Annual	Annual	Permanent
Manufacturers	\$50,000	\$25,000	\$5,000	Waived	\$2,500	\$350	\$350	N/A
Suppliers	\$25,000	\$10,000	\$5,000	Waived	\$2,500	\$350	\$350	N/A
Category 1	\$50,000,000	N/A	\$5,000	Waived	\$2,500	\$350	\$350	\$60
Category 2	\$50,000,000	N/A	\$5,000	Waived	\$2,500	\$350	\$350	\$60
Category 3	\$5,000,000	N/A	\$5,000	Waived	\$2,500	\$350	\$350	\$60
Management Company C-1 or C-2	\$500,000	\$500,000	\$5,000	Waived	\$2,500	\$350	\$350	\$60
Management Company C-3	\$50,000	\$50,000	\$5,000	Waived	\$2,500	\$350	\$350	\$60
Junket	\$3,500	\$3,500	\$2,500	Waived	\$1,000	\$350	\$350	\$60
Vendor Certification	\$4,000/4 years	\$4,000/4 years	\$1,500	Waived	\$500	\$350	\$350	\$60
Vendor Registration	\$2,000/4 years	\$2,000/4 years	0	Waived	N/A	N/A	N/A	N/A

* Non-refundable deposits. All additional costs above these amounts shall be reimbursed to the Board by the Applicant.

** Affiliates, Intermediaries, Subsidiaries and Holding Companies (Affiliated Entities) are required to file the appropriate forms, but the license, permit, certification, registration and application fees are waived. However, all costs associated with the background investigation of the Affiliated Entities must be paid by the applicant.

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 125-61

DATE: April 26, 2007

SUBJECT: Subpart B. 421a, 423a, 425a, 427a, 431a, 436a, 438a, 439a, 440a

AGENCY: Pennsylvania Gaming Control Board

INDEPENDENT REGULATORY
REVIEW COMMISSION

2007 APR 26 PM 2:54

RECEIVED

TYPE OF REGULATION

- Proposed Regulation
 - 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
1. <u>4/26/07</u>	<u>Eileen Kruck</u>	House Gaming Oversight Committee
<u>4/26/07</u>	<u>Royette Jones</u>	
2. <u>4/26/07</u>	<u>Kristi Kreiser</u>	Senate Community, Economic & Recreational Committee
<u>4/26/07</u>	<u>Jeanette D'Eramo</u>	
3. <u>4/26/07</u>	<u>Kathryn Cooper</u>	Independent Regulatory Review Commission
4. <u>4/26/07</u>	<u>Bahar</u>	Legislative Reference Bureau