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INDEPENDENT REGULATORY
REVIEW COMMISSION

IRRC Number:

2666

Regulatory Analysis Form

(1) Agency

Pennsylvania Gaming Control Board

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

125 - 78

(3) Short Title

Unredeemed Gaming Vouchers

(4) PA Code Cite

58 PA. Code §§ 461a.1 & 461a.8

(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.

These amendments add provisions governing how slot machine licensees should treat unredeemed gaming vouchers.

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

§§ 1202(b)(30) and 1207 of the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S. §§ 1202(b)(30) and 1207) provide the Board with the authority to promulgate regulations to prescribe internal control requirements.

The Disposition of Abandoned and Unclaimed Property Act (72 P.S. § 1301 *et seq.*) applies to unredeemed gaming vouchers.

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.

No.

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

The amendments will provide direction to and require slot machine licensees to establish internal controls for unredeemed gaming vouchers.

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

There are no public health, safety, environmental or general welfare risks affected by these amendments.

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

Slot machine licensees will have a clearer understanding of their responsibilities related to unredeemed gaming vouchers.

There are currently 11 slot machine licensees.

Patrons who did not redeem gaming vouchers issued to them may benefit by receiving the value of the unredeemed gaming vouchers from the slot machine licensees.

Because the slot machine licensees have recently or are just beginning operations, the number of patrons who may benefit can not be determined.

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.)

Slot machine licensees will incur some additional costs to comply with this regulation.

There are currently 11 slot machine licensees.

(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.)

Slot machine licensees will have to comply with these regulations.

There are currently 11 slot machine licensees.

(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.

No specific public input was solicited prior to the proposal of these amendments.

Discussions were held with Treasury to discuss the applicability of The Disposition of Abandoned and Unclaimed Property Act to gaming vouchers.

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

The Board anticipates that there will be some cost associated with these amendments but they will be small because the slot machine licensees are already required to track unredeemed gaming vouchers under The Disposition of Abandoned and Unclaimed Property Act.

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.

The Board anticipates that there will be no costs or savings to local governments as a result of these amendments.

(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 anticipates that there will be some minor costs to Treasury associated with receiving the annual reports and unredeemed gaming vouchers from the slot machine licensees. However, because of the small number of slot machine licensees, the Board anticipates that existing Treasury staff will be adequate to handle the reports from the slot machine licensees.

There will be no costs or savings to other agencies in state government as a result of these amendments.

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 + Yea
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:	N/A	N/A	N/A	N/A	N/A	N/A
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 Costs	N/A	N/A	N/A	N/A	N/A	N/A
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
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.

The Board anticipates that there will be no significant costs or savings imposed as a result of the adoption of these amendments.

Patrons who did not redeem gaming vouchers issued to them may benefit by receiving the value of unredeemed gaming vouchers from the slot machine licensees. However, because the slot machine licensees have limited operating experience, the number of patrons who may benefit and the dollar amount of this benefit can not be determined.

Because The Disposition of Abandoned and Unclaimed Property Act does not require the transfer of unclaimed property for 5 years, no cost figures have been included above. However, based on estimates obtained from the operating casinos, the value of unclaimed vouchers may be about \$ 400,000 annually. Eventually, the Commonwealth would receive these funds. This amount should increase as additional casinos open.

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 F
Board Budget	\$13,200,000	\$26,400,000	\$29,984,000	\$33,300,000

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

As noted in the previous responses, there may be some minor costs associated with tracking unredeemed gaming vouchers and filing reports with Treasury.

The Board believes that these costs will be less than the amount of money that patrons will receive from gaming vouchers that they did not redeem at the licensed facilities.

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

There were no alternatives considered because the current regulations could only be changed by amending the current regulations.

(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?

Nothing in these amendments 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 amend existing provisions in Chapter 461a 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 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 amendments will require slot machine licensees to annually prepare reports for Treas and submit copies of those reports to the Board.

(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.

There are no special provisions for these groups in these regulations.

(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 be obtained?

These regulations will be effective 90 days after publication as a final rule in the *Pennsylvania Bulletin*.

It is anticipated that final regulations will be published in the third quarter of 2008.

(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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INDEPENDENT REGULATORY
REVIEW COMMISSION

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

By: _____
(Deputy Attorney General)

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

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

**Pennsylvania Gaming
Control Board**

FISCAL NOTE NO. : 125- 78

DATE OF ADOPTION: 7-10-08

BY: Mary DiGirolamo
Mary DiGirolamo Collins, CHAIRMAN

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

BY: R. Douglas Sherman
R. Douglas Sherman, Acting Chief Counsel

7-10-08
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.

**FINAL-FORM RULEMAKING
COMMONWEALTH OF PENNSYLVANIA**

**58 PA. CODE, SUBPART E
CHAPTER 461a**

RULES AND REGULATIONS

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA.CODE CHAPTER 461a]

SLOT MACHINE TESTING AND CONTROL

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general powers) and the specific authority in 4 Pa.C.S. § 1207 (relating to regulatory authority of the board), amends Chapter 461a (relating to slot machine testing and control) to read as set forth in Annex A.

Purpose of the Final-form Rulemaking

This final-form rulemaking adds provisions governing how slot machine licensees should treat unredeemed gaming vouchers.

Explanation of Chapter 461a

This final-form rulemaking amends §§ 461a.1 and 461a.8 (relating to definitions; and gaming vouchers). In § 461a.1 the Board is adding a definition of "unredeemed gaming voucher." In § 461a.8 the Board is adding new requirements which must be addressed in each slot machine licensee's internal controls. More specifically, slot machine licensees will be required to establish procedures: to pay the value of unredeemed gaming vouchers exceeding \$25 to patrons that can be identified by the slot machine licensee; to track unredeemed gaming vouchers and forward the unredeemed gaming vouchers to the Treasury Department (Treasury) as required by The Disposition of Abandoned and Unclaimed Property Law; and to file copies of any reports submitted to Treasury related to the unredeemed vouchers with the Board.

Comment and Response Summary

Notice of proposed rulemaking was published at 38 Pa.B. 343 (January 19, 2008).

The Board received comments on the proposed rulemaking from the Treasury Department (Treasury), Downs Racing, L.P. (Downs), Greenwood Gaming and Entertainment, Inc. (Greenwood), Washington Trotting Association, Inc. (WTA) and the Independent Regulatory

Review Commission (IRRC). Those comments were reviewed by the Board and are discussed in detail below.

Treasury noted that the proposed amendments require slot machine licensees to establish various procedures, but do not require the slot machine licensees to implement or follow them.

The procedures required by this rulemaking are to be made part of the slot machine licensees' internal controls. Under § 465a.2 (relating to internal control systems and audit protocols) slot machine licensees' internal controls must be approved by the Board and complied with by the slot machine licensees. Therefore, an explicit compliance provision does not need to be added to the final-form regulation.

IRRC asked for an explanation of why the Board eliminated the provisions related to expiration dates on gaming vouchers. The Board took this action in response to a legal opinion it received from Treasury that unredeemed gaming vouchers are property subject to the Disposition of Abandoned and Unclaimed Property Act (72 P.S. § 1301.1 *et seq.*) (DAUPA). As such they do not expire and the value of any gaming voucher must be forwarded to Treasury if it is not redeemed within 5 years

In their comments, Down's recommended that the requirement to track the value of unredeemed gaming vouchers be eliminated. They argue that the value of unredeemed gaming vouchers is usually quite small and the administrative costs incurred would generally exceed the value of the unredeemed gaming vouchers. Greenwood also shares Down's concerns as to the costs of tracking unredeemed gaming vouchers.

The Board agrees that the administrative costs associated with these requirements will be significant. However, the tracking of the vouchers is necessary to meet the statutorily mandated reporting requirements under DAUPA. The Board believes that slot machine licensees will be able to modify their existing computer systems to produce the reports that will be needed to compile the information that will be required to meet Treasury's reporting requirements.

Both Downs and Greenwood also suggested that the Board adopt a shorter timeframe, 1 year rather than 5 years, for tracking unredeemed gaming vouchers and forwarding them to Treasury. They also suggest that the Board adopt provisions similar to those of the Horse and Harness Racing Commissions' regulations that require the forwarding to Treasury, the value

of any unredeemed pari-mutuel tickets after April 1 of the year following their purchase.

The Board agrees that the suggestion to mirror the regulations of the Horse and Harness Racing Commissions would be a reasonable approach. However, the Horse and Harness Racing Commissions' regulations are based on a specific statutory provision contained in 4 P.S. § 325.202(b)(3). The Pennsylvania Race Horse Development and Gaming Act does not contain a similar provision, and for this reason, the Board has no authority to adopt such a provision

The Board also notes that these regulations do not specify any time period. This is because the Board does not have the authority to establish the retention period; the provisions of DAUPA are controlling. While the 5-year period in DAUPA applies to unredeemed gaming vouchers, Section 1301.13 (relating to payment or delivery) does allow earlier delivery to Treasury with the consent of the State Treasurer. We encourage the slot machine licensees to discuss this option with Treasury.

Concerning the requirement to make payment of the value of unredeemed gaming vouchers to the owner if the owner can be identified, commentators have: questioned the feasibility and practicality of this provision; suggested that it be eliminated; or asked that the Board set a minimum amount that must be met before payment would be required.

Concerning the feasibility, slot machine licensees all use player tracking software that allows the slot machine licensees to track individual's play and that would be capable of identifying any unredeemed gaming vouchers that were won by a player if the player is using their player card. While this will require some modifications to the slot machine licensees' computer systems, these changes would have to be made anyway because Treasury requires that the names and addresses of individuals who have unclaimed property to be reported if known.

It was not the Board's intention that slot machine licensees be required to identify the winner of an unredeemed gaming voucher beyond those individuals who could be identified through the player tracking systems. To clarify this intention, the phrase "through the slot machine licensee's player tracking system" has been added to the end of the proposed language in § 465a.8(d)(9).

Concerning the practicality of this requirement, the Board agrees that requiring refunds of de minimis amounts is unreasonable. Accordingly, the Board has amended § 465a.8(d)(9) to only require payment when the individual or aggregated value of an unredeemed gaming voucher or vouchers is \$25 or more. This level corresponds to the highest threshold suggested by commentators and strikes a reasonable balance between the amount of money to be paid and the administrative costs involved. Slot machine licensees would, however, have the option to adopt a lower threshold for making payments if they so desire.

Finally, Greenwood and WTA suggested that if the Board proceeds with this regulation, that the Board provide a period of time for slot machine licensees to make the necessary changes to their computer systems. The Board agrees that this is a reasonable request and has deferred the effective date of this final-form regulation till 90 days after the publication of the final-form regulation in the *Pennsylvania Bulletin*.

Affected Parties

This final-form rulemaking will affect slot machine licensees by establishing specific requirements as to how they should treat unredeemed gaming vouchers.

There are currently 11 slot machine licensees.

Fiscal Impact

Commonwealth

There will be no new costs to the Board or other Commonwealth agencies as a result of this rulemaking. Reports filed with the State Treasurer by the slot machine licensees will be handled by existing staff.

Political Subdivisions

This final-form rulemaking will have no fiscal impact on political subdivisions of the Commonwealth.

Private Sector

Slot machine licensees will be required to track unredeemed gaming vouchers and forward them to the State Treasurer as required by Article XIII.I of the code.

General Public

This final-form rulemaking may result in some patrons receiving payment for gaming vouchers that they did not redeem.

Paperwork requirements

This final-form rulemaking will require slot machine licensees to annually prepare reports for the State Treasurer and submit copies of those reports to the Board.

Effective Date

The final-form rulemaking will become effective 90 days after publication in the *Pennsylvania Bulletin*.

Contact Person

The contact person for questions about this final-form rulemaking is Richard Sandusky, Director of Regulatory Review, 717-214-8111.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a), on January 9, 2008, the Board submitted a copy of the proposed rulemaking, published at 38 Pa.B. 343 (January 19, 2008), and a copy of the Regulatory Analysis Form to IRRC and the Chairpersons of the House Gaming Oversight Committee and the Senate Committee on Community, Economic and Recreational Development.

Under section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), **on , 2008**, the final-form rulemaking was deemed approved by the House Gaming Oversight Committee and the Senate Committee on Community, Economic and Recreational Development. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)) IRRC met **on , 2008** and approved the final-form rulemaking.

Findings

The Board finds that:

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

(2) The final-form rulemaking is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(a) The regulations of the Board, 58 Pa. Code Chapter 461a, are amended by amending § 461a.1 to read as set forth in 38 Pa.B. 343 and by amending § 461a.8 to read as set forth in Annex A.

(b) The Chairman of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall take effect 90 days after publication in the *Pennsylvania Bulletin*.

MARY DIGIACOMO COLLINS,
Chairman

Annex A

Title 58. RECREATION

PART VII. GAMING CONTROL BOARD

SUBPART E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

* * * * *

CHAPTER 461a. SLOT MACHINE TESTING AND CONTROL

§ 461a.1. Definitions.

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

* * * * *

Unredeemed gaming voucher - A gaming voucher that has not been presented to a slot machine licensee for redemption or a gaming voucher that has been found and returned to a slot machine licensee.

* * * * *

§ 461a.8. Gaming vouchers.

* * * * *

(b) The design specifications for a gaming voucher, [the expiration terms applicable thereto,] the voucher verification methodologies utilized and any limitation on the value of a gaming voucher must be in compliance with technical standards on gaming vouchers under § 461b.3 (relating to gaming vouchers).

* * * * *

(d) Prior to issuing a gaming voucher, a slot machine licensee shall establish a system of internal controls for the issuance and redemption of gaming vouchers. The internal controls shall be submitted and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols) and address:

* * * * *

(9) Procedures for the payment of the value of unredeemed gaming vouchers, WHICH INDIVIDUALLY OR IN THE AGGREGATE EQUAL \$25 OR MORE, to a patrons whose identity can be determined by the slot machine licensee USING THE SLOT MACHINE LICENSEE'S PLAYER TRACKING SYSTEM.

(10) Procedures for the retention, tracking and payment of the value of unredeemed gaming vouchers to the State Treasurer as required by Article XIII.I of The Fiscal Code (72 P.S. §§ 1301.1 - 1301.28a) regarding the disposition of abandoned and unclaimed property.

(11) Procedures for filing with the Board a copy of any report submitted to the State Treasurer as required by Article XIII.I of The Fiscal Code.

**COMMENTATORS WHO REQUESTED NOTICE
OF THE FINAL-FORM REGULATION**

FISCAL NOTE: 125-78

**For: Downs Racing, L.P.
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**For: Washington Trotting Association, Inc.
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**Kim Kaufman
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101**

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

I.D. NUMBER: 125-78

DATE: 7-11-08

SUBJECT: Subpart E. Chapter 461a

AGENCY: Pennsylvania Gaming Control Board

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INDEPENDENT REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

- Proposed Regulation
- Final-Form 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>7/11/2008</u>	<u>[Signature]</u> (Rep. James)	House Gaming Oversight Committee
2. <u>7/11/2008</u>	<u>[Signature]</u> (Rep. Clymer)	
3. <u>7/11/08</u>	<u>[Signature]</u> (Senator LaValle)	Senate Community, Economic & Recreational Committee
4. <u>7-11-08</u>	<u>[Signature]</u> (Senator Earll)	
5. <u>7/11/08</u>	<u>[Signature]</u>	Independent Regulatory Review Commission
6. _____	_____	Legislative Reference Bureau