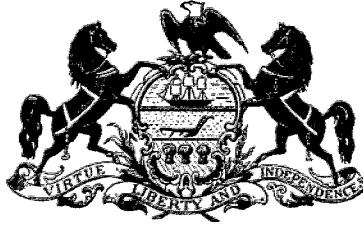


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June 19, 2008

Ms. Michaele A. Totino
Regulatory Analyst
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Ms. Totino:

I would like to thank you and your staff for meeting with myself, and other concerned and affected Lebanon County parties regarding comments on Regulation 125-85.

Attached are written Talking Points which will reiterate my comments at our meeting.

Please call me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Rose Marie".

RoseMarie Swanger
STATE REPRESENTATIVE
102nd Legislative District

CC: Leslie A. Lewis Johnson, IRRRC Chief Counsel
Heather Wimbush Emery, Assistant Counsel
Fiona E. Wilmarth, Director of Regulatory Review

RMS/lh

INDEPENDENT REGULATORY
REVIEW COMMISSION

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TALKING POINTS – Rep. RoseMarie Swanger
Regulation 125-85
June 17, 2008

As a legislator representing Lebanon Counties, I would like to comment on Regulation #125-85 of the Pennsylvania Gaming Control Board. The regulation amends the definition of “licensed facility” in the Pennsylvania Race Horse Development and Gaming Act.

As you are aware, under the proposed definition, the Board expands the definition of the term “licensed facility” to list what it intends to consider part of and not part of “licensed facility”. Specifically, the Board proposes to add to the end of the statutory definition the following language:..

including the gaming floor and all restricted areas servicing slot operations together with all adjacent and proximate amenities, including but not limited to food, beverage and retail outlets and other areas directly accessible from the gaming floor or the restricted areas servicing slot operations. The term does not encompass areas or amenities exclusive to pari-mutuel activities, hotel activities and other amenities and activities not related to slot machine gaming operations.

This new definition, I believe, is in contrast to the current definition found in Section 1103 of 4 Pa. C.S. There the General Assembly and with the agreement of the Governor simply defined a “licensed facility” as:

The physical land-based location at which a licensed gaming entity is authorized to place and operate slot machines.

The proposed additional language to the definition was not the intent of the General Assembly when Act 71 was passed in 2004. Our intention was to include the land-based location of the facility including the racetrack and any hotel, parking lot, and backside areas. This is why the definition was left broad.

Since it was known possible for a licensed facility to be located in two different municipalities or two different counties, the General Assembly enacted a specific provision to deal with the funding distribution of local shares this situation. In section 1403(c)(3) language was specifically enacted stating how funds should be divided in a licensed facility is located in more than one second class township.

Specifically, roughly three percent of Hollywood Casino at Penn National's 735 acres lies within East Hanover Twp., Lebanon County. This acreage currently qualifies under the definition of "licensed facility". Consequently, Lebanon County and East Hanover Twp, Lebanon County each are entitled to a share of Hollywood Casino's slots revenues.

However, if the Gaming Board is permitted to promulgate regulation #125-85 without amendment, the regulation will negate this part of the current statute. Under the proposed definition, since the acreage is not part of casino operations, neither Lebanon County or East Hanover Twp, Lebanon County would be entitled to a share.

1 Pa.C.S. §1921(a) states the following:

...Every statute shall be construed, if possible, to give effect to all its provisions.

Clearly, the regulation without amendment cannot be permitted to be promulgated because its effect would be to negate section 1403(c)(3) which would violate 1 Pa.C. S. 1921(a). This was never the intent of the General Assembly when passing Act 71.

I hope you understand my concerns and make changes to this definition prior to final rulemaking that are more accurate with the intent of the legislation.

Thank you for your time and attention as we share our concerns with you regarding the proposed definition change to "licensed facility."