

5/17/11

# Regulatory Analysis Form

(Completed by Promulgating Agency)



# IRRC

Independent Regulatory Review Commission

## SECTION I: PROFILE

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IRRC

2011 AUG 12 A 11: 12

(1) Agency:

Revenue

(2) Agency Number:

Identification Number:

15-451

IRRC Number:

2905

(3) Short Title:

Amendments to Local Option Small Games of Chance

(4) PA Code Cite:

61 Pa. Code §§ 901.1 – 901.731

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact:

Mary R. Sprunk, Regulatory Coordinator  
Pennsylvania Department of Revenue, Office of Chief Counsel  
P.O. Box 281061  
Harrisburg, PA 17128-1061  
(717) 783-7524  
(717) 772-1459 (Fax)

Secondary Contact: Douglas A. Berguson (717) 346-4633

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
  - Certification by the Governor
  - Certification by the Attorney General

## Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The Department is promulgating amendments to 61 Pa. Code, Part VII. Local Option Small Games of Chance to improve the clarity and effectiveness of the Department's regulations relating to games of chance. In addition, the Department is adding rules regarding the assignment of a game of chance form number by registered manufacturers to identify a specific and distinct game of chance. Please reference the preamble for a detailed summary of the amendments.

(9) Include a schedule for review of the regulation including:

- |   |                                     |
|---|-------------------------------------|
| A. The date by which the agency must receive public comments:                               | <u>30 days after publication</u>    |
| B. The date or dates on which public meetings or hearings will be held:                     | <u>N/A</u>                          |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>2<sup>nd</sup> Quarter, 2012</u> |
| D. The expected effective date of the final-form regulation:                                | <u>Upon final publication</u>       |
| E. The date by which compliance with the final-form regulation will be required:            | <u>Upon final publication</u>       |
| F. The date by which required permits, licenses or other approvals must be obtained:        | <u>N/A</u>                          |

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

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

**SECTION II: STATEMENT OF NEED**

(11) State the statutory authority for the regulation. Include specific statutory citation.

Statutory authority for the regulation is set forth in section 9 of the act of December 19, 1988 (P.L. 1262, No. 156) (10 P.S. § 319).

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

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

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

This new regulatory language will provide uniformity and guidance to eligible organizations, manufacturers, distributors and licensing authorities that reference the regulations at Chapter 901. Local Option Small Games of Chance.

## Regulatory Analysis Form

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

No scientific data, studies or references are used to justify this regulation.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

No parties should be adversely affected by the regulation.

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

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

**SECTION III: COST AND IMPACT ANALYSIS**

(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. Explain how the dollar estimates were derived.

The regulation does not increase costs or savings to the regulated community. No legal, accounting or consulting procedures are required by this regulation.

(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. Explain how the dollar estimates were derived.

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

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

This regulation does not increase costs or savings to state government. No legal, accounting or consulting procedures are required by this regulation.

## 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. (NA - See responses to (17), (18), (19).)

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

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

Program	FY -3	FY -2	FY -1	Current FY
NA	NA	NA	NA	NA

## Regulatory Analysis Form

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The adoption of the proposed amendments will improve the clarity and effectiveness of the Department's regulations relating to games of chance. By improving clarity and effectiveness, the regulation will provide uniformity and guidance to eligible organizations, manufacturers, distributors and licensing authorities that reference the regulation. The proposed regulation creates no foreseeable revenue impact.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

A copy of the proposed regulation was forwarded to the Pennsylvania Bar Association, the Philadelphia Bar Association, the Pennsylvania Institute of Certified Public Accountants, the Pennsylvania Society of Public Accountants, and the Pennsylvania Chamber of Business and Industry, the Pennsylvania County Treasurer's Association, the Pennsylvania District Attorney's Association, the Liquor Control Board, and the State Police. A copy of the regulation was also forwarded to several nonprofit charitable, religious, fraternal, veteran and civic associations. The regulation is listed on the Department's Quarterly Regulatory Report posted on the Department's website and will be forwarded to interested parties upon request.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

There are no alternative regulatory provisions associated with the regulation.

(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 regulations.

There are no federal standards associated with this regulation.

## Regulatory Analysis Form

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The regulation will not put Pennsylvania at a competitive disadvantage with other states.

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

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

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This regulation does not change existing reporting, record keeping or other paperwork requirements.



## Regulatory Analysis Form

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

No special groups are affected by the regulation.

# RAF SUPPLEMENTAL PAGE

(This page valid for use through November 1, 2011)

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## Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION  
2011 AUG 12 A 11: 12

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency:

Revenue

(2) Agency Number:

Identification Number: 15-451

IRRC Number: 2905

(3) PA Code Cite: 61 Pa. Code §§ 901.1 – 901.731

(4) Short Title: Amendments to Local Option Small Games of Chance

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Mary R. Sprunk (717) 783-7524

Secondary Contact: Douglas A. Berguson (717) 346-4633

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation  
 Final Regulation  
 Final Omitted Regulation

- Emergency Certification Regulation;  
 Certification by the Governor  
 Certification by the Attorney General

(7) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

No scientific data, studies or references are used to justify this regulation.

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

5/17/11

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IRRC

2011 AUG 12 AM 11:13  
DO NOT WRITE IN THIS SPACE

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

*Amy M. Elliott*

By: (Deputy Attorney General)

JUL 27 2011

DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached.

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

PA Department of Revenue  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 15-451

DATE OF ADOPTION

*Daniel Meuser*

BY Daniel Meuser, Acting  
TITLE Secretary of Revenue  
(Executive Officer, Chairman or Secretary)

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

*Andrew Clark*  
BY Andrew Clark  
AUG 10 2011

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.

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

61 Pa. Code §§ 901.1 - 901.731

Local Option Small Games of Chance

Department of Revenue - Notice of Proposed Rulemaking

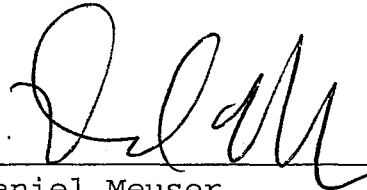
61 Pa. Code §§ 901.1 - 901.731

Local Option Small Games of Chance

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SECRETARY'S CERTIFICATION

I, Daniel Meuser, do hereby certify that I have reviewed this regulation and determined that the regulation is consistent with the principles outlined in Executive Order 1996-1.



---

Daniel Meuser  
Acting Secretary of Revenue

Department of Revenue - Notice of Proposed Rulemaking

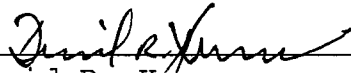
61 Pa. Code §§ 901.1 - 901.731

Local Option Small Games of Chance

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FORM AND LEGALITY

I certify that I have reviewed this regulation for form and legality, that I have discussed any legal and policy issues with the attorneys responsible for this regulation, that I have made all appropriate revisions and that all information contained in the Preamble and Annex A is current and accurate.

  
\_\_\_\_\_  
David R. Kraus  
Chief Counsel

## PREAMBLE

The Department of Revenue (Department), under authority contained in section 9 of the act of December 19, 1988 (P.L. 1262, No. 156) (10 P.S. § 319), proposes amendments to 61 Pa. Code, Part VII. Local Option Small Games of Chance, Chapter 901. Local Option Small Games of Chance, §§ 901.1 - 901.731, to read as set forth in Annex A.

### Purpose of Proposed Rulemaking

This proposed rulemaking contains amendments to Part VII of Title 61 to improve the clarity and effectiveness of the Department's regulations relating to games of chance. In addition, the Department is adding rules regarding the assignment of a game of chance form number by registered manufacturers to identify a specific and distinct game of chance.

### Explanation of Regulatory Requirements

#### Subchapter A. General Provisions

##### Definitions

Revisions to § 901.1 (relating to definitions) are proposed for clarity for the following definitions: "Chance," "Pull-tab" and "Punch." Two new definitions are added: (1) "Form number" to identify a specific and distinct game of chance and (2) "Sale" to explain the term includes both sale and resale.

## General Applicability

The existing text of § 901.23 (relating to restriction of sales) is amended at paragraph (a)(2) Manufacturers, to add clarifying language "that the Department has approved for use in this Commonwealth." In addition, at subsection (b) Distributors, amendments have been made to clarify "for sales or use" within this Commonwealth.

## Subchapter B. Licensing and Registration

### Manufacturer Registration

Section 901.116 (relating to change in ownership or personnel) has been reserved. This section was superseded by § 901.103a (relating to change of application information) which was effective August 12, 2006.

Section 901.117 (relating to denial, notice of violation and revocation) is amended by adding new language in subsection (a) which outlines the actions for mandatory denial and revocation. The current subsection (a) is re-lettered to (b), renamed from "Manufacturer registration certificate" to "Discretionary denial and revocation" and enhanced with clarifying terms. The current subsection (b) is re-lettered to (c) and the name is shortened to "Game of chance." The current subsection (c) is re-lettered to (d) with clarifying language added at paragraph (1). Subsection (d) is re-lettered to (e) with no other revisions.

Section 901.117a (relating to registration following revocation) is renamed to "Registration following denial or revocation" and amended. Language is added in subsection (a) which outlines reapplying after a denial. The current language in this section is lettered as subsection (b), titled "Revocations," and modifies the period of time manufacturers are ineligible to apply for and receive another certificate following revocation.

#### Distributor Licensing

Section 901.143 (relating to restrictions on distributorship interest) is amended to expand subsection (b) on pecuniary interest.

Section 901.151 (relating to denial, notice of violation and revocation of licenses) is amended by adding clarifying language to a new subsection (a) which outlines the actions for mandatory denial and revocation. The current language at subsection (a) is re-lettered to (b), renamed from "Distributor license" to "Discretionary denial and revocation" and deletes language relating to a notice of violation. The current subsection (b) is re-lettered to (c) and amended with clarifying terms. The current subsection (c) is re-lettered to (d).

Section 901.151a (relating to licensing following revocation) is renamed to "Licensing following denial or revocation" and amended at subsection (a) with new language which outlines reapplying after a denial. The current language in this section



is lettered as subsection (b), titled "Revocations," and modifies the period of time distributors are ineligible to apply for and receive another certificate following revocation.

#### Subchapter D. Recordkeeping

##### Manufacturing Records and Report

Section 901.425 (relating to records) is amended to clarify documentation on sales invoices. The second sentence in subparagraph (1)(iv) is deleted and rewritten in more detail as subparagraph (1)(v): "For sales to a Pennsylvania registered manufacturer or Pennsylvania licensed distributor, the manufacturer shall indicate on the invoice each game that the Department has approved and not approved for sale in the Commonwealth." The current language at subparagraphs (1)(v) - (1)(viii) are renumbered accordingly (1)(vii) - (1)(x).

##### Distributor Records and Reports

Section 901.445 (relating to records) is amended to add language addressing invoice requirements for the selling of games of chance to another Pennsylvania licensed distributor or a Pennsylvania licensed eligible organization. Subparagraphs (1)(v) and (1)(vi) are new. The current subparagraphs (1)(v) - (1)(viii) are renumbered accordingly to (1)(vii) - (1)(x).

#### Subchapter F. Manufacturing Standards

##### Pull-Tab Manufacturing Standards

Section 901.601 (relating to uniform minimum quality standards) is amended at subsection (c) with clarifying language relating to pull-tabs. In addition, paragraph (c)(1) is renumbered to subsection (c). The current language at (c)(2) is moved to a new subsection (d) and enhanced with more details regarding sub-deals. Two new subsections are added: (e) Separate and distinct pull-tabs; (f) Contingent purchases.

A new section 901.610 (relating to pull-tab count) is added with a reference to § 901.731(g) (relating to punchboard and pull-tab operation).

#### General Manufacturing Standards

Section 901.632 (relating to predetermination of rules, winning chances and prizes) has been amended to include two subsections. New subsection (a) contains the current language and the insertion of "for sale or use in this Commonwealth." New language in subsection (b) is added to further explain predetermination at the manufacturer level.

A new section 901.634 (relating to game of chance form numbers) is added to explain the rules regarding the assignment of a form number for each game of chance by a registered manufacturer. An example has also been included in the new section.

#### Subchapter G. Operation of Games

##### Eligible Organization Operation of Games

Section 901.709 (relating to one eligible organization per premise) is renamed to "One eligible organization and license per premises." New language is inserted as subsection (a) which clarifies that only one license may be issued for each licensed premise. Subsection (b) is created with the first sentence of the existing language under this section. The new subsection (c) contains the remaining sentences currently in this section and is enhanced with a sentence that explains that an eligible organization that permits the use of its premises shall comply with the provisions of § 901.510 (relating to use of licensed premises by more than one organization).

#### Punchboards and Pull-Tab Operation Procedures

Section 901.731 (relating to punchboard and pull-tab operation) is amended at subsection (g) by editing the language and inserting a reference to see the new Section 901.610 (relating to pull-tab count).

#### Affected Parties

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

#### Fiscal Impact

The Department has determined that the proposed amendments, which provide clarification of existing policy, will have minimal fiscal impact on the Commonwealth.

### Paperwork

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

### Effectiveness/Sunset Date

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

### Contact Person

Interested persons are invited to submit in writing any comments, suggestions, or objections regarding the proposed amendment to Mary R. Sprunk, Office of Chief Counsel, PA Department of Revenue, P.O. Box 281061, Harrisburg, Pennsylvania 17128-1061, within thirty (30) days after the date of the publication of this notice in the Pennsylvania Bulletin.

### Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on *August 12, 2011*, the Department submitted a copy of this proposed amendment to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. In addition to submitting the amendment, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with

Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

The Committees may, at any time prior to the submittal of the final-form regulation, convey to the agency and the Commission, their comments, recommendations and objections to the proposed regulation. The Independent Regulatory Review Commission may, within 30 days of the close of the public comment period, submit to the agency and Committees any comments, recommendations and objections to the proposed regulation. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised, prior to final publication of the amendments, by the Department, the General Assembly and the Governor.

DANIEL MEUSER, ACTING  
SECRETARY OF REVENUE

04/28/11

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

ANNEX A

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

Subchapter A. GENERAL PROVISIONS

**DEFINITIONS**

§ 901.1. Definitions.

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

Chance – A right purchased for consideration to participate  
in a game for a prize or prizes offered in the game, which right  
is represented by a tangible item such as a pull-tab, punch,  
ticket, document, paper or other similar item.

\* \* \*

Form number - A unique number or alphanumeric code assigned  
by the manufacturer to identify a specific and distinct game of  
chance.

\* \* \*

Pull-tab - A game piece representing a single chance in a pull-tab game made completely of paper or paper products with concealed numbers or symbols that must be exposed by the player to determine wins or losses.

\* \* \*

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

\* \* \*

Sale - The term includes both sale and resale.

#### **GENERAL APPLICABILITY**

§ 901.23. Restriction of sales.

(a) Manufacturers.

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

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

(b) Distributors.

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

(2) Sales. A licensed distributor may only sell, offer for sale or furnish approved games of chance [for use] within this Commonwealth to another licensed distributor or to a licensed eligible organization. This paragraph does not apply to the sale of raffle, daily drawing or weekly drawing tickets.

(3) Purchase. A licensed distributor may only purchase approved games of chance for [resale] sale in this



Commonwealth from a registered manufacturer or licensed distributor. This paragraph does not apply to the purchase of raffle, daily drawing or weekly drawing tickets.

\* \* \*

**Subchapter B. LICENSING AND REGISTRATION  
MANUFACTURER REGISTRATION**

§ 901.116. Reserved.

§ 901.117. Denial, notice of violation and revocation.

(a) Mandatory denial and revocation. The Department will deny any manufacturer's application for registration and a certificate and will revoke a registration and certificate if the applicant or registered manufacturer fails to do one or more of the following:

(1) File a complete application.

(2) File required State tax reports.

(3) Pay any State tax liability that is not subject to a timely administrative or judicial appeal or is not subject to and not in default of a duly authorized deferred payment plan.

(b) [Manufacturer registration certificate] Discretionary denial and revocation. The Department may deny [an] a manufacturer's application for registration and a certificate[,

issue a notice of violation] or revoke a registration and certificate if the manufacturer or a person required to be identified in the application form commits one or more of the following acts:

\* \* \*

[(b)](c) Game of chance [approval]. The Department may deny an application for a game of chance approval. The Department may issue a notice of violation for or revoke an approved game of chance if the game of chance fails to meet the requirements of the act or this part. The Department may revoke its approval of a game if the Department determines that the approval was issued in error.

[(c)](d) Notice of violation.

(1) The Department may issue a [A] notice of violation [is issued] to notify a registered manufacturer of a violation of the act or this part and to provide the manufacturer with an opportunity to remedy the violation. A manufacturer retains the privileges conferred on it by its certificate or game approval during the notice period and may continue to sell games of chance in this Commonwealth.

\* \* \*

[(d)](e) Notice.

\* \* \*

§ 901.117a. Registration following denial or revocation.

(a) Denial. Unless otherwise provided in the act or this part, a manufacturer whose application for a manufacturer's registration certificate is denied may reapply as follows:

(1) If the denial is the result of an incomplete application, the manufacturer may reapply at any time after the denial by filing a complete application.

(2) If the denial is a result of the manufacturer's violation of the act or this part, then the provision in subsection (b) related to revocations shall apply.

(b) Revocations. Unless otherwise provided by the act or this part, a manufacturer whose registration and certificate are revoked is ineligible to reapply for registration and another certificate as follows:

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

(2) For a second revocation, [the manufacturer is ineligible to apply for and receive another certificate for the

remaining registration term as well as the following registration term] 18 months.

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

### **DISTRIBUTOR LICENSING**

§ 901.143. Restrictions on distributorship interest.

(a) A licensed eligible organization may not be a distributor.

(b) A person who is an officer, director, proprietor, consultant, employee or owner of a distributorship may not have a pecuniary interest in the operation of games of chance. For purposes of this section, a pecuniary interest is the actual or potential for an accession to wealth, whether cash or property, resulting from the play and operation of a game of chance. It includes an interest resulting from one of the following acts:

(1) The sale of a game of chance in exchange for a contingent fee based upon a percentage of the proceeds from chances sold in or prizes awarded in the game.

(2) A lease of a dispensing machine in which the rental is based upon the number of games purchased by the

eligible organization, the percentage of proceeds from chances sold or prizes awarded in games of chance.

\* \* \*

§ 901.151. Denial, notice of violation and revocation of licenses.

(a) Mandatory denial and revocation. The Department will not approve any application for a distributor license and will revoke a license if the applicant or licensed distributor fails to do one of the following:

(1) File a complete application.

(2) File required State tax reports.

(3) Pay any State tax liability that is not subject to a timely administrative or judicial appeal or is not subject to and not in default of a duly authorized deferred payment plan.

(b) [Distributor license] Discretionary denial and revocation. The Department may deny a license application[, issue a notice of violation] or revoke a license if the distributor or a person required to be identified in the application form commits one of the following acts:

\* \* \*

[(b)](c) Notice of violation.

(1) [A] The Department may issue a notice of violation [is issued] to notify a licensed distributor of a violation of the act or this part and to provide the distributor with an opportunity to remedy the violation. A distributor retains the privileges conferred on it by its license during the notice period and may continue to sell games of chance in this Commonwealth.

\* \* \*

[(c)](d) Notice.

\* \* \*

§ 901.151a. Licensing following denial or revocation.

(a) Denial. Unless otherwise provided in the act or this part, a distributor whose application for a distributor's license is denied may reapply as follows:

(1) If the denial is the result of an incomplete application, the manufacturer may reapply at any time after the denial by filing a complete application.

(2) If the denial is a result of the manufacturer's violation of the act or this part, then the provision in subsection (b) related to revocations shall apply.

(b) Revocations. Unless otherwise provided by the act or this part, a distributor whose license is revoked is ineligible to apply for and receive another license as follows:

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

(2) For a second revocation, [the distributor is ineligible to apply for and receive another license for the remaining license term as well as the following license term] 18 months.

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

#### **Subchapter D. RECORDKEEPING**

##### **MANUFACTURING RECORDS AND REPORTS**

§ 901.425. Records.

A record must include the following:

(1) Sales invoices. A manufacturer shall record every sale, return or other type of transfer of games of chance to a Pennsylvania registered manufacturer or Pennsylvania licensed distributor by completing a sales invoice or credit

memo. An invoice must be prenumbered at the time of purchase. The numbering must be consecutive, using at least four digits. Manufacturers may use a computer generated numbering system if the same system is used for all sales and specific numbers cannot be input by use of a manual terminal or other device. The invoice must contain the following information:

(i) The date of the sale.

(ii) The date of the delivery.

(iii) The customer's business address.

(iv) The description of each item sold, including serial numbers for pull-tabs and form number. [Each game listed on the invoice that the Department has approved for sale in this Commonwealth must be clearly noted]. The games may be listed in separate attachment identifying the form numbers and serial numbers.

(v) For sales to a Pennsylvania registered manufacturer or Pennsylvania licensed distributor, the manufacturer shall indicate on the invoice each game that the Department has approved and not approved for sale in the Commonwealth.



(vi) The quantity and sale price of each individual item, including individual items of merchandise to be used as prizes on punchboards and pull-tabs.

[[vi]] (vii) The gross amount of each sale to each customer, including discount terms and the total dollar amount of a discount.

[vii] (viii) The total amount of the invoice.

[[viii]] (ix) The distributor license number.

\* \* \*

#### **DISTRIBUTOR RECORDS AND REPORTS**

§ 901.445. Records.

A record must include the following:

(1) Sales invoices. A distributor shall record every sale, return or other type of transfer of games of chance to a Pennsylvania licensed distributor or a Pennsylvania licensed eligible organization by completing a standard sales invoice or credit memo. An invoice must be prenumbered at the time of purchase. The numbering must be consecutive using at least four digits. The invoice must contain the following information:

\* \* \*

(v) For sales to a Pennsylvania licensed distributor, the distributor shall indicate on the invoice each game that the Department has approved and not approved for sale in this Commonwealth.

(vi) For sales to a Pennsylvania licensed eligible organization, the distributor shall confirm that the Department has approved for sale in this Commonwealth each game listed on the invoice and provide a written statement on the invoice affirming that each game listed on the invoice has been approved for sale in the Commonwealth. A Pennsylvania licensed distributor may not sell (and therefore invoice) a game that the Department has not approved for sale in the Commonwealth to a licensed eligible organization. See § 901.23(b)(2) (relating to restriction of sales).

(vii) The quantity and sales price of each individual item, including individual items of merchandise to be used as prizes on punchboards and pull-tabs.

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

[(vii)] (ix) The total amount of the invoice.

[(viii)] (x) The ideal prizes per game.

\* \* \*

## Subchapter F. MANUFACTURING STANDARDS

### PULL-TAB MANUFACTURING STANDARDS

§ 901.601. Uniform minimum quality standards.

\* \* \*

(c) Randomization.

[(1)] Pull-tabs in a deal must be distributed and mixed among all other pull-tabs in a deal so as to eliminate any pattern in the location of any particular pull-tab, including winning and losing pull-tabs, in a deal or between deals.

[(2)] (d) Sub-deals. A deal in a pull-tab game may not be segregated into sub-deals or portions [so that a]. A pull-tab game shall not be manufactured such that a part of a deal may be distinguished or played separately from the rest of the deal in the pull-tab game.

(e) Separate and distinct pull-tabs. Each pull-tab in a deal of a pull-tab game shall be produced as a separate and distinct chance that can be purchased separately from all other pull-tabs in the deal. No pull-tab shall be attached or connected to another pull-tab in a deal if the pull-tabs so attached or connected can be sold separately. Nothing in this

subsection shall be construed to prohibit a pull-tab from containing winning and losing numbers or symbols that are concealed by multiple break-open windows, banded tickets or stapled tickets or other similar concealment methods.

(f) Contingent purchases. No pull-tab game shall be manufactured that makes the purchase of one pull-tab contingent upon the purchase of another pull-tab, chance or item.

\* \* \*

§ 901.609. Name or logo imprinting.

The manufacturer's name or logo shall be placed on pull-tabs produced by the manufacturer.

§ 901.610. Pull-tab count.

(a) A pull-tab deal in a pull-tab game shall not contain more than 4,000 individual pull-tabs. See also § 901.731(g) (relating to punchboard and pull-tab operation).

(b) A pull-tab will be counted towards the number of individual pull-tabs in a deal if the pull-tab represents a separate and distinct chance in the pull-tab game that can be purchased separately from other chances in the pull-tab game.

#### GENERAL MANUFACTURING STANDARDS

\* \* \*

§ 901.632. Predetermination of rules, winning chances and prizes.

(a) Except as provided in § 901.731(b)(2) (relating to punchboard and pull-tab operation), a registered manufacturer of a pull-tab game or punchboard for sale or use in this Commonwealth shall predetermine the rules, prize structure, prizes, prize values, winning pull-tabs or punches and the corresponding prize for each pull-tab or punch during the manufacturing of the pull-tab game or punchboard. A person may not alter a pull-tab game or punchboard manufactured by a registered manufacturer and offered for sale and use within this Commonwealth.

(b) A registered manufacturer shall not produce a pull-tab game or punchboard for sale or use in this Commonwealth that permits the operator of or a participant in the game to choose between optional game rules, payout structures or methods of operating the game.

§ 901.634. Game of chance form numbers.

(a) A registered manufacturer shall assign a separate and distinct form number for each game of chance produced for sale or use in the Commonwealth. Any variation in the form number indicates a separate and distinct game.

(b) All aspects of a game to which a form number has been assigned shall be identical. This includes the name of the game and its exact spelling, graphics, winning and losing numbers and symbols, the number of chances, the sale price for each chance, the rules of play, the total prize payout structure, and the exact prize payout for each winning chance.

Example. A registered manufacturer produces a game with the name "Lucky Sevens" and Form #LS-1500. The deal for the game consists of 1500 pull-tab tickets (and therefore chances) each sold at \$1. The game has an ideal prize payout of 81.333% if all the tickets are sold and all prizes are claimed (that is, the game pays out \$1,220 of the \$1,500 proceeds from the sale of all tickets). The game has 50 instant winners that pay out a total of \$720 (3 @ \$100, 3 @ \$50, 4 @ \$25 and 10 @ \$10, 10 @ \$5 and 20 @ \$1). The game also has 10 hold tickets with a chance at a seal prize of \$500. Every game produced with the Form #LS-1500 must be designated with the name "Lucky Sevens" and must be identical including the above prize payout percentage, total payout and prize structure. There cannot be any variation. For example, the manufacturer could not replace the four \$25 instant winner tickets with ten more instant winners at \$10 each. The manufacturer could produce such a game but it would require a separate and distinct form number.

**Subchapter G. OPERATION OF GAMES**

**ELIGIBLE ORGANIZATION OPERATION OF GAMES**

\* \* \*

§ 901.709. One eligible organization and license per premises.

(a) Only one license may be issued for each licensed premises.

(b) Only one licensed eligible organization may use a licensed premise to conduct games of chance.

(c) A licensed eligible organization may allow another licensed eligible organization that does not own or lease a normal business premises to conduct games of chance on its premises. When an eligible organization uses the premises of another eligible organization, each eligible organization shall notify its respective licensing authority and district attorney in writing at least 10 days prior to using the premises. An eligible organization that permits the use of its premises shall comply with the provisions of § 901.510 (relating to use of licensed premises by more than one organization).

\* \* \*

**PUNCHBOARD AND PULL-TAB OPERATION PROCEDURES**

§ 901.731. Punchboard and pull-tab operation.

\* \* \*

(g) A person may not [sell or transfer to another person in this Commonwealth, for use within this Commonwealth, or] put out for public play[,] a pull-tab deal [which] that contains more than 4,000 individual pull-tabs [or 4,000 stapled packets of jar tickets]. See also § 901.610 (relating to pull-tab count).

04/28/11



TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

I.D. NUMBER: 15-451  
SUBJECT: LOCAL OPTION SMALL GAMES OF CHANCE  
AGENCY: DEPARTMENT OF REVENUE

TYPE OF REGULATION

- X 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

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FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8-12-11	Kristen Burns <i>Minority</i>	HOUSE COMMITTEE ON FINANCE Phyllis Mundy
8-12-11	<i>Keri</i>	MAJORITY CHAIRMAN Kerry A. Benninghoff
8-12-11	Nancy <i>Minority</i>	SENATE COMMITTEE ON FINANCE John Wozniak
8/12/11	Karen L. Mowu	MAJORITY CHAIRMAN Mike Brubaker
8/12/11	K Cooper	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
8.12.11	<i>[Signature]</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)