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# NATIONAL ASSOCIATION OF FUNDRAISING TICKET MANUFACTURERS

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September 13, 2011

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Ms. Mary Sprunk  
Office of Chief Counsel  
Pennsylvania Department of Revenue  
P.O. Box 281061  
Harrisburg, PA 17128-1061

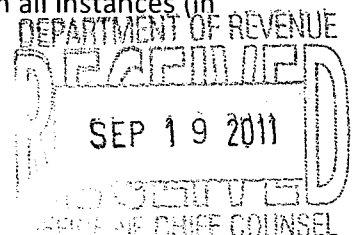
Dear Ms. Sprunk:

I am writing on behalf of the National Association of Fundraising Ticket Manufacturers (NAFTM) to provide comments on the proposed rules published in the Pennsylvania Bulletin on August 27, 2011. As you know, during the past several months, we have had some informal discussions with the Department with respect to the content of the proposed rules. We very much appreciate the opportunity afforded to us to discuss the proposed rules. As a result, there are only a few items in the rules that remain a concern to us.

## **§901.632 Predetermination of rules, winning chances and prizes**

Our primary concern with the proposed rules rests with subsection (b) of this section. Subsection (b) prohibits a manufacturer from selling a game in Pennsylvania that permits the operator or a participant to choose between optional game rules, payout structures or methods of operating the game. We strongly believe that this language should be deleted.

The effect of subsection (b) will be to prohibit the most popular games in the Commonwealth of Pennsylvania and thereby, hurt the charities that rely on the games for fundraising proceeds. Currently, the majority of games sold in the Commonwealth are seal card games that allow the operator to choose from a small selection of prize awards, all of which are plainly printed on the seal card for the game. "Option games" are in all respects identical to all other seal card games, except that the operator has the option to select how the pre-determined prize amount is paid out. For example, the operator may pay 1 prize at \$500; 2 prizes at \$250 or 5 prizes at \$100. The prize payout for the game is the same in all instances (in



this example \$500). The amount of the payout and the various prize options are pre-determined by the manufacturer. The only difference is how the \$500 is paid out.

The operators like these "option games" because it reduces their inventory of games and significantly reduces the possibility that they will be left with 'dead' or unsellable games. Players are a particular and fairly sophisticated lot. They like certain games, and certain payouts, and they dislike others. If an operator buys 10 deals of "option games" (with 3 options per seal), the operator can ensure that it can meet the needs of any crowd, whether they like large prizes or multiple smaller prizes. Without the "option games" the operator has to buy: (1) more deals (which increases its expenses); (2) guess which type of prize payout will be the easiest to sell; and (3) be prepared to be stuck with games that do not sell (because the prize payout was not what the players were looking for). In short, the loss of the "option games" will cost the operators money in the form of higher expenses and lower proceeds. Given the competition in Pennsylvania from the slot parlors, charitable operators cannot afford higher expenses, nor can they afford to be left with games that do not sell.

The manufacturers and distributors like the "option games" because they reduce the number of games needed to be carried in inventory and reduce the number of games that need to be submitted to the Department for Approval. The "option games" decrease the amount of inventory the distributors need to carry, thereby reducing expenses. "Option games" also reduce the number of games that need to be submitted to the Department for approval. If the games are prohibited, as proposed in the rule, the Department can expect a significant increase in the number of games submitted for approval each month. Instead of one game being submitted (with 3 payouts), the manufacturers will have to submit three games to cover all the payouts. Multiply this by all the manufacturers and by all the new games developed each month, and we would expect a dramatic increase in the number of games submitted for approval. This will undoubtedly increase the work of the department and presumably, the department's costs as well.

These "option games" have been sold in Pennsylvania for years without incident. We have heard of no "player disputes" over the chosen option, nor have we heard of any confusion among the players. It is our understanding that when a game is put into play, the operator selects the prize payout option by marking it clearly and legibly on the flare (typically with marker or other easily seen ink). Often, the operators verbally announce the option in play as well. Because the flare is clearly marked, no player can really dispute the selected option and no player can claim confusion over the method of play.

The Department could consider adding some language to Sections 901.634 and 901.731 to govern "option games." For example, in section 901.634, the Department could add in item (b)(6) the following:

*"The exact payout prize payment for each winning chance, including each prize option for seal cards containing optional prizes."*

In section 901.731, the department could add a subsection that states:

For seal card games containing optional prizes, the operator must clearly designate the selected prize option on the flare and post the flare prior to the sale of any tickets in the game."

#### **§901.601 Uniform minimum quality standards**

The newly renumbered subsection (d) prohibits the sale of pull-tab games in sub-deals. We understand and support the idea that all tickets in a deal be put out for play and played at the same time. This is an issue of fairness to the players. However, in the case of a game with sub-deals, each sub-deal is *designed* to be played separately. It is produced by the manufacturer to be played separately. Each sub-deal has a defined payout, and all of the sub-deals are identical in all respects.

Sub-Deals are a primary way for small charities to offer pull-tab games with larger prizes. Generally, in order to support larger prizes amounts (i.e. \$500), there must be a large number of tickets in the deal (usually about 4000). Small charities typically cannot sell an entire 4,000 ticket count deal in one session. In a game with sub-deals, the entire deal of 4000 tickets is divided into smaller sub-deals, each containing 200-300 tickets. The sub-deals are linked to a seal card with multiple seal prizes, one tied to each sub-deal in the game. The prizes on the seal card are based on the entire 4000 tickets in the deal, so they are higher than the typical prizes that would be found in a game with 200-300 tickets.

Sub-deals allow the small charities to sell one or two sub-deals of 200-300 tickets in one session. Because the sub-deals are linked to the "master" seal card, smaller charities can offer the same size prizes as the bigger games. This allows a small charity to sell only 200-300 tickets and offer the winner a chance at a \$500 prize. This results in a game that is the same as if you sold the 4,000 ticket count deal all at once.

We recommend changing section 901.601, subsection (d) as follows:

(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 may not be manufactured so that a part of a deal may be distinguished or played separately from the rest of the deal in the pull-tab game, unless the pull-tab game the game is divided into sub-deals by the manufacturer, the sub-deals are identical in all respects, and the total number of tickets in the deal does not exceed 4000.

#### **§901.117 Denial, notice of violation and revocation.**

This section provides for the mandatory denial of a manufacturer's application for the failure to file a complete application. We are concerned about this language and the affect it may have on our licenses in other jurisdictions. Most state regulatory statutes and/or rules consider the "denial" of a license application in one state to be grounds for the denial or revocation of a license in their state. This is true regardless of the basis for the denial. We would suggest amending this section slightly to provide the manufacturer with the opportunity to cure an application defect prior to a formal denial.


Accordingly, we suggest modifying the language in subsection (a)(1) as follows:

(a) *Mandatory denial and revocation.* The Department will deny a manufacturer's application for registration and 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, but only if the manufacturer was provided written notification from the Department that the application was incomplete and the manufacturer fails to submit a complete application within thirty (30) days of its receipt of the written notification.

We appreciate your consideration of these comments. If you have any questions, please do not hesitate to contact me.

Very truly yours,



Mary B. Magnuson

**FIRST CLASS MAIL**

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OFFICE OF CHIEF COUNSEL

