

KELLY LINE INC.

Kelly Printing – American Eagle Mfg.

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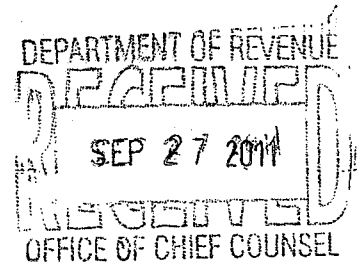
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To: Mary R. Spunk
Office of Chief Counsel
Department of Revenue
P. O. Box 281061
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In Reference to: Proposed Rulemakings (61 PA. CODE CH. 901)
Local Option Small Games of Chance
(41 Pa.B. 4638) Saturday, August 27, 2011)



The following is a List of Problems and complaints I have with the "Proposed Rulemakings"

"Fiscal Impact" The dept. has determined that proposed rulemaking will have minimal fiscal impact is seriously flawed.

There are approximately 110 Licensed Distributors and 30 Licensed Manufacturers of small games of chance. The current inventory of games that have been approved by the Department over the past 25 years is huge. Estimates are that between Manufacturers, Distributors and Clubs there is approximately **5 to 8 million dollars** of Inventory that could be deemed illegal under these proposed rules. *Keep in mind the department has already approved these games. These rules make no provisions as to whether these games will be "grandfathered" until sold or illegal upon approval. This alone is a huge impact on the affected parties. Secondly, the manufacturers will now have to make 2 to 3 times the amount of new games with a "Single Seal Option*" and then submit them to the state for approval, This will at the very least DOUBLE if not TRIPLE the paper work going to the state for the approval process. Then the cost of manufacturing, coupled with the additional cost of paperwork involved will then increase prices to end users by about 20% (Another huge fiscal impact)*

*under 901.632. section (b) A registered Manufacturer may not produce a pull-tab game or punchboard for sale or use in this Commonwealth that permits the operator of or participant in the game to choose between optional game rules, payout structures or methods of operating the game. "This does not Clarify Anything". It is clearly an attempt by revenue to legislate. The Department has Approved Thousands of Games over the past 25 years with a "Multiple Seal Option" and now wants to change the law (*not clarify*) to eliminate multiple seals. Why? Nobody really knows! Currently 98% of all games Manufactured Nationwide have Multiple seal Options and changing to Single seal Options will have a huge fiscal impact as stated above. THIS ONE CHANGE WILL COST THE INDUSTRY BETWEEN 10 AND 20 MILLION OVER THE NEXT 5 YEARS again, another huge financial impact. (*I realize 10 to 20 million dollars compared to a multi billion dollar state budget does not sound like a lot of money, but the majority of the distributors and manufacturers of small games of chance are small business grossing from \$150 thousand to 3 million in sales and are struggling to survive in this economy. The financial impact to them will be huge and is sure to put 10 to 20% of them out of business if this becomes law*)

Under 901.1 Definitions - "Punch" THIS DEFINITION IS FLAWED.

Since the legality of Small games of chance a "Punch" has had as few as 1 number or symbols and up to 5 numbers or symbols on each crimped strip of paper AND there are from 1 to 4 individual punches in a punchboard receptacle hole representing a single chance in a punchboard . This is not something new. This is how punchboards have been manufactured since the early 1900's.

Under 901.23. Restriction of Sales - I have one concern about section (3) Purchase

This section states Distributors may only purchase approved games from a Mfg or Distributor. This could be construed to mean that buying back games from clubs is illegal.

Under section 901.425. Records SECTION (V) For sales to a Pennsylvania registered Manufacturer or Pennsylvania Distributor, the manufacturer shall indicate on the invoice each game that the Dept. has approved and not approved for sale in this Commonwealth "THIS DOES NOT CLARIFY ANYTHING" Does this mean if a Manufacturer purchases a Christmas Basket from Walmart to use as a prize on a game that Walmart must list all items of merchandise in that basket? OR does the Manufacturer have to take the basket apart and list every item in the basket on the invoice? Does this Restrict a Club from Purchasing a Basket from Walmart and using it as a prize on a game? If Revenue already approves the games that are submitted with prizes why is all this additional paperwork needed. This rule is so vague that anyone could be in violation What Public interest could be served by this? We are talking about small games of chance here. Many clubs give away "Trinket items as prizes on games" What could be the purpose of trying to regulate or even have an invoice billing them for such items?

SECTION (vi) "The quantity and sale price of each individual item, including individual items of merchandise to be used as prizes - Again this is so vague and could create up to 100 times the paperwork to bill for merchandise games! Does revenue really care what is in a basket purchased from walmart? What could be served by this rule except to destroy the use of merchandise on games. This appears to be a rule that could be used as some kind of vendetta to get something or anything on someone an agent or the department does not like. What I really do not understand is that if the Dept. has already approved a game what purpose is served by all the confusion and paperwork it looks like you are trying to create. Small games of chance is limited to a \$500 top prize and 5000 a week in payout. The organizations running small games are NON PROFIT, Fire Companies, Churches, VFW's Legions, Fish & Games, etc. The average organization makes \$200 to \$500 per week profit on small games of chance. The proposed rule changes would increase their paperwork 5 to 10 fold. They are composed mostly of Volunteers who DO NOT GET PAID and certainly are not Accountants when it comes to paperwork. Is it really necessary to Over Regulate them in their quest to raise funds to Buy Fire Fighting Equipment, Fund Children's Activities, Repair Churches or Help buy a Wheel Chair for a Veteran coming home from war?

Under section 901.445. Records section (viii) (x) The ideal prizes per game – What does this really mean? There is absolutely no clarity in this! Does the invoice have to List all the prizes? Does it have to List the winners 4@\$250, 4@\$100, 6@\$50, 6@\$10, 24@\$5, 860@\$1 in the description? For Merchandise games does it have to list 1@\$100, 1@\$50, 1@Ketchup, 1@Mustard, 1@Pickles, 1@Bologna, 1@Basket, 1@Baseball Hat, 1@Folding Chair and On and On and On and On??? Who really knows? How can you abide by the law if it is so ambiguous a college professor or judge could not even figure it out? Again I have to ask, what is Revenue trying to accomplish here. Certainly These rules **DO NOT Clarity Anything!** Is the Dept. really going to investigate a Fire Hall to See if they gave a jar of Pickles away?

The purpose of these rules are to "improve the clarity and effectiveness" of the Department's regulations regarding games of chance. I fail to see How these rules meet that standard. These rules are Vague, Ambiguous and Confusing to say the least. No one can figure out what is legal or not legal? They simply are going to incite legal battles over a bag of candy or jar of ketchup.

The Department of Revenue's Mission is to "Fairly, Efficiently and Accurately Administer the Tax Law and other Revenue programs of the commonwealth to fund government services"

Under the heading of "Fairly" does this mean Revenue will be reviewing all industries in the state with a microscope like they are reviewing small games of chance?

Sincerely,

Ron Kelly, President
Kelly Line, Inc.

cc: Representative Michael Tobash 125th District
Representative Neil Goodman 123th District
Representative Jerry Knowles 124th District
Senator David Argall 29th District