

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency

Pennsylvania Gaming Control Board

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

125 - 57

IRRC Number:

2601

(3) Short Title

Subpart J: Exclusion of Persons

(4) PA Code Cite

58 PA. Code
Chapters 511a and 513a

(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.

Pursuant to the authority granted to the Board under § 1203 of The Pennsylvania Horse Race Development and Gaming Act (Act)(4 Pa.C.S. § 1203), the Board initially adopted Chapters 511 and 513 as temporary regulations on May 19, 2006 (36 Pa.B. 2905) and June 15, 2006 (36 Pa.B. 3441) respectively. Under the Act, these temporary regulations will expire on July 5, 2007.

By this rulemaking, the Board is proposing to replace those temporary regulations with permanent regulations.

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

§ 1202(b)(30) of the Act (4 Pa.C.S. § 1202(b)(30)) provides the Board with general authority to promulgate regulations the Board deems necessary to carry out the policy and purposes of the Act.
§§ 1514 and 1515 (4 Pa.C.S. §§ 1514 and 1515) provide more specific authority for Chapter 511a.
§ 1207(8) (4 Pa.C.S. § 1207(8)) provides more specific authority for Chapter 513a.

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(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.

§ 1203(b) of The Pennsylvania Horse Race Development and Gaming Act (Act)(4 Pa.C.S. § 1203(b)) provides that temporary regulations adopted by the Board shall expire no later than three years following the effective date of the Act. Accordingly, promulgation of the proposed regulations before that date is necessary.

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

Promulgation of these regulations is necessary to replace the Board's temporary regulations that will expire and are needed to carry out the policy and purposes of the Act and to enhance the credibility and the integrity of gaming in the Commonwealth.

More specifically, it will provide the basis for barring or removing individuals from licensed facilities who are underage or whose presence would be inimical to the interest of the Commonwealth and gaming.

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

Failure to replace the existing temporary regulations could create disruptions in gaming in the Commonwealth which could reduce future gaming revenues and reduce employment opportunities in the gaming industry.

Additionally, the lack of permanent regulations would eliminate the procedures that have been established to put individuals on the exclusion list and to removal individuals from licensed facilities both of which are intended to protect and maintain the integrity of gaming in the Commonwealth.

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

These regulations, like the existing temporary regulations, are designed to establish requirements for placing individuals on the exclusion list and for excluding individuals who should not be in licensed facilities.

Applicants and holders of slot machine licenses will benefit from having a clear understanding of the standards and requirements that they will be required to meet.

Individuals placed on the exclusion list will have a process to challenge the placement or to request removal. Underage individuals will have a clear understanding of the ramifications of violating the gaming restrictions.

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(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.)

Because these regulations are designed to address or prevent persons who should not be in a licensed facility from being there, there is no adverse impact associated with these regulations.

(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.)

Eventually, 14 slot machine licensees will be impacted by these regulations. Currently there are 11 Category 1 and 2 approved licensees.

Individuals who are added to the exclusion list will also have to comply with the requirements in this rulemaking. The number of individuals who will be placed on the list in Pennsylvania is unknown, but is projected to be in the 100 to 200 person range.

Underage individuals who attempt to engage in gaming will also be impacted by these regulations.

(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.

Drafts of the temporary regulations were published in the *Pennsylvania Bulletin* and posted on the Board's website for public comment prior to their adoption.

Additionally, regulators in other states with exclusion programs were contacted to gain information on their experience with these programs.

(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.

Slot machine licensees will experience costs related to developing exclusion programs, training of employees, posting signs, and compliance with the requirements of these chapters.

There are no savings generated as a result of these regulations.

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(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.

There will be no costs imposed upon or savings to local governments associated with these regulations.

(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's cost related to these regulations will consist of the cost of investigations and processing exclusion petitions, hearing requests and maintenance and distribution of the exclusion list.

There are no savings to state government as a result of these regulations.

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(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 +5 Year
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:						
Regulated Community	\$43,000	\$59,000	\$63,000	\$54,000	\$57,000	\$59,000
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	\$50,000	\$44,000	\$45,000	\$47,000	\$49,000	\$51,000
Total Costs	\$93,000	\$103,000	\$108,000	\$101,000	\$106,000	\$110,000
REVENUE LOSSES:						
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.

First year costs for slot machine licensees are based on estimated costs for developing procedures to comply with the requirements in these chapters, training of employees, posting signs and reporting to the Board. Subsequent year costs are based on estimated costs for training new employees, removing excluded or underage individuals and reporting to the Board when necessary.

State government costs are based on estimates of the amount of time spent on these programs by the Director of Compulsive and Problem Gaming Enforcement, personnel in the Bureau of Investigations and Enforcement and personnel in Hearings and Appeals.

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

Program	FY -3	FY -2	FY -1	Current FY
Board Budget	N/A	\$2,900,000	13,200,000	\$26,400,000

(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, the costs of these programs are balanced against the benefit to the slot machine licensees and the integrity of gaming of excluding individuals who should not be present in the licensed facilities.

Slot machine licensees will know the removal procedure for excluded persons in a licensed facility or underage individuals on the gaming floor or engaged in gaming activities.

Individuals who are excluded will know their rights and available remedies upon exclusion (i.e. may demand a hearing) and will know the proper procedure for petitioning the Board to be removed from the exclusion list.

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

The only alternative considered was to implement practices based solely on the Act.

Since the Act does not contain enough detail on the exclusion process, regulations are necessary.

(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.

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(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?

Many of the provisions in these regulations are similar to those in other gaming jurisdictions.

Nothing in these chapters 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 replace the existing temporary Chapters 511 and 513 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 beyond the normal public comment period have been scheduled.

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(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 regulations retain the reporting requirements contained in the temporary regulations for slot machine licensees.

These reporting requirements include notifying the Board of the identity any individuals the slot machine licensee believes meets the criteria for exclusion.

Individuals demanding a hearing must file a response to the notice served by the Clerk. Individuals seeking to be removed from the exclusion list must file a petition specifying the grounds for removal.

(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.

These regulations contain no special provisions for affected groups.

(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 must be obtained?

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

It is anticipated that final regulations will be adopted before the July 5, 2007 expiration date of the existing temporary regulations.

(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.

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

By: Amy M. Elliott
(Deputy Attorney General)

MAR 22 2007
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- 57

DATE OF ADOPTION: 2.27.07

BY: Thomas A. Decker
Thomas Decker, CHAIRMAN

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

BY: Frank Donaghue
Frank Donaghue, Chief Counsel

2.27.07
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.

**PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA**

58 PA. CODE, CHAPTERS 511a, 513a

PROPOSED PREAMBLE FOR SUBPART J

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA.CODE CHAPTERS 511a and 513a]

PERSONS REQUIRED TO BE EXCLUDED; UNDERAGE GAMING

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general specific powers) and the specific authority in 4 Pa.C.S. §§ 1207(8), 1514 and 1515 (relating to regulatory authority of board; regulation requiring exclusion of certain persons; and repeat offenders excludable from licensed gaming facility), proposes to adopt Chapters 511a and 513a (relating to persons required to be excluded; and underage gaming) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

Under the authority granted to the Board under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board initially adopted temporary regulations in Chapter 511 at 36 Pa.B. 2905 (June 10, 2006) and in Chapter 513 at 36 Pa.B. 3441 (July 1, 2006). Under 4 Pa.C.S. Part II (relating to gaming), the temporary regulations will expire on July 5, 2007.

The Board is proposing to replace the temporary regulations with the permanent regulations in this proposed rulemaking.

Explanation of Chapters 511a and 513a

The temporary Chapter 511 regulations implement the provisions of sections 1514 and 1515 of the Act. Sections §§ 511.1 and 511.2 define terms used in this chapter and specify the information the Board will provide to slot machine licensees about individuals on the exclusion list. These sections also provide that the exclusion list will be available to the public, both at the Board's offices and on the Board's website.

Sections 511.3, 511.4 and 511.5 list the criteria the Board will use when determining whether or not an individual should be placed on the exclusion list; the duties of the Bureau of Investigations and Enforcement relating to the exclusion process; the process to be used to place a person on the exclusion list; and the consequences of being placed on the exclusion list.

Sections 511.6 and 511.7 address a person's right to a hearing if they are placed on the exclusion list; the conduct of such hearings; and the Board's review of placements.

Section 511.8 requires slot machine licensees to exclude or eject individuals who are on, or meet the criteria to be on, the exclusion list; to notify the Board if an excluded person is found in or attempts to enter a licensed facility; and to notify the Board about any individual the slot machine licensee believes meets the criteria for exclusion

Finally, § 511.9 outlines the petition process that an individual who is on the exclusion list can use to request removal from the exclusion list.

The temporary Chapter 513 regulations specify who is excluded from the gaming floor or from engaging in gaming activities based on age. Also included in this chapter are regulations relating to the responsibilities of licensees, permittees, registrants and certification holders related to underage gaming; and defenses that cannot be used in enforcement actions.

Amendments to the temporary regulations in this proposed rulemaking include a large number of editorial changes in both chapters that improve the clarity of the language contained in the existing temporary regulations.

Additionally, § 511a.2 was amended to move the provision relating to what information would be provided to slot machine licensees from § 511.8 to this section. The substance of what was previously contained in § 511.2(c) has been moved to § 511a.8.

In § 511a.4, the Board has been deleted as an entity who may refer a person for investigation, and law enforcement agencies and licensed facilities have been added as entities that can make a referral. Subsection (d) from the temporary regulation has been deleted; it is no longer needed due to the revisions made in §§ 511a.6 and 511a.7. § 511a.5 has been expanded to address the enforcement action taken if an excluded person is caught gaming.

Sections 511a.6 and 511a.7 have been substantially revised to simplify and clarify the process for hearings on placement on the exclusion list and the Board review of placements.

The former § 511.8 has been deleted because the material in this section has been relocated to § 511a.2. In the new § 511a.8 (formerly § 511.9), the provision that was § 511.2(c) in the temporary regulations is now subsection (a) in this section.

In Chapter 513a, § 513a.2 has been amended to add check cashing privileges to the list of services that should not be provided to anyone under 21.

A new § 513a.4 has also been added that mandates posting signs that state that individuals under 21 can not engage in gaming activities, will be removed if found gaming, and may be subject to arrest for trespass.

Affected Parties

This proposed rulemaking imposes requirements on slot machine licensees, persons who are placed on the excluded persons list and individuals who are not old enough to engage in gaming (under 21) or are too young to be on the gaming floor (under 18).

Fiscal Impact

Commonwealth

This proposed rulemaking will impose costs on the Board related to placing individuals on the exclusion list, maintenance and distribution of the excluded persons list and enforcement of the provisions related to exclusion and underage gaming.

Political Subdivisions

This proposed rulemaking will have no significant fiscal impact on political subdivisions of the Commonwealth.

Private Sector

Slot machine licensees will experience costs related to training of employees, signage requirements, and compliance with the requirements of the exclusion underage gaming provisions.

General Public

Individuals seeking to dispute placement on or seeking removal from the exclusion list will experience some minor costs associated with the hearing and petition processes.

Paperwork requirements

This proposed rulemaking requires slot machine licensees to maintain, update and disseminate information on excluded persons. A slot machine licensee is also required to submit the names of any individuals it believes meet the criteria for placement on the excluded person list.

Individuals demanding a hearing will have to file a response to the notice served by the Clerk. Individuals seeking to be removed from the exclusion list will have to file a petition specifying the grounds for removal.

Effective Date

The proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Paul Resch, Secretary, Pennsylvania Gaming Control Board, P.O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-57.

Contact Person

The contact person for questions about this proposed rulemaking is Richard Sandusky, Director of Regulatory Review, at (717) 214-8111.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 28, 2007, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public

comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

THOMAS A. DECKER,
Chairperson

ANNEX A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

SUBPART J. EXCLUSION

CHAPTER 511a. PERSONS REQUIRED TO BE EXCLUDED

§ 511a.1. Definitions.

§ 511a.2. Maintenance and distribution of the exclusion list.

§ 511a.3. Criteria for exclusion.

§ 511a.4. Duties of the Bureau.

§ 511a.5. Placement on the exclusion list.

§ 511a.6. Demand for hearing on the placement of a person on the exclusion list.

§ 511a.7. Board review.

§ 511a.8. Duties of slot machine licensees.

§ 511a.9. Petition to remove name from the exclusion list.

§ 511a.1. Definitions.

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

Career or professional offender — A person, who for the purpose of economic gain, engages in activities that are deemed criminal violations under 18 Pa.C.S. or equivalent criminal violations in other jurisdictions, or

engages in unlawful activities contained in section 1518(a) of the act (relating to prohibited acts; penalties)

Cheat -

(i) To alter, without authorization, the elements of chance, method of selection or criteria which determine:

(A) The result of a slot machine game.

(B) The amount or frequency of payment in a slot machine game.

(C) The value of a wagering instrument.

(D) The value of a wagering credit.

(ii) The term does not include altering for required maintenance and repair.

(iii) The term includes an act or acts in any jurisdiction that would constitute an offense under section 1518(a)(6) and (a)(7) of the act (relating to prohibited acts; penalties).

Excluded person - A person who has been placed upon the exclusion list and who is required to be excluded or ejected from a licensed facility.

Exclusion list - A list of names of persons who are required to be excluded or ejected from a licensed facility.

§ 511a.2. Maintenance and distribution of the exclusion list.

(a) The Board will maintain a list of persons to be excluded or ejected from a licensed facility.

(b) The exclusion list will be open to public inspection at the Board's central office during normal business hours and will be distributed to every slot machine licensee within this Commonwealth, who shall acknowledge receipt thereof in writing or electronically.

(c) The following information will be provided to the slot machine licensees for each excluded person on the exclusion list:

(1) The full name and all aliases the person is believed to have used.

(2) A description of the person's physical appearance, including height, weight, type of build, color of hair and eyes and any other physical characteristics which may assist in the identification of the person.

(3) The person's date of birth.

(4) The date the person was added to the list.

(5) A recent photograph, if available.

(6) The last known address of record.

(7) Other identifying information available to the Board.

§ 511a.3. Criteria for exclusion.

(a) The exclusion list may include a person who meets one or more of the following criteria:

(1) A career or professional offender whose presence in a licensed facility would, in the opinion of the Board, be inimical to the interest of the Commonwealth or a slot machine licensee, or both.

(2) An associate of a career or professional offender whose presence in a licensed facility would be inimical to the interest of the Commonwealth or a slot machine licensee, or both.

(3) A person who has been convicted of a criminal offense under the laws of any state, or of the United States, which is punishable by more than 1 year in prison, or who has been convicted of any crime or offense involving moral turpitude, and whose presence in a licensed facility would be inimical to the interest of the Commonwealth or a slot machine licensee, or both.

(4) A person whose presence in a licensed facility would be inimical to the interest of the Commonwealth or licensed gaming therein, including:

(i) Cheats.

(ii) Persons whose gaming privileges have been suspended by the Board.

(iii) Persons whose permits, licenses or other approvals have been revoked.

(iv) Persons who pose a threat to the safety of the patrons or employees of a slot machine licensee.

(v) Persons with a history of conduct involving the disruption of the gaming operations of slot machine licensees.

(vi) Persons subject to an order of a court of competent jurisdiction in this Commonwealth excluding those persons from licensed facilities.

(vii) Persons with pending charges or indictments for a gaming or gambling crime or a crime related to the integrity of gaming operations in this Commonwealth or another jurisdiction.

(viii) Persons who have been convicted of a gaming or gambling crime or crime related to the integrity of gaming operations in this Commonwealth or another jurisdiction.

(ix) Persons who have performed an act or have a notorious or unsavory reputation that would adversely affect public confidence and trust in gaming, including, being identified with criminal activities in published reports of various Federal and state legislative

and executive bodies that have inquired into criminal or organized criminal activities.

(b) For purposes of subsection (a), a person's presence may be considered "inimical to the interest of the Commonwealth or of licensed gaming therein" if known attributes of the person's character and background meet one or more of the following criteria:

(1) Are incompatible with the maintenance of public confidence and trust in the credibility, integrity and stability of the operation of a licensed facility.

(2) May reasonably be expected to impair the public perception of, and confidence in, the strict regulatory process created by the act.

(3) Create or enhance a risk of the fact or appearance of unsuitable, unfair or illegal practices, methods or activities in the conduct of gaming or in the business or financial arrangements incidental thereto.

(c) A finding of inimicality may be based upon the following:

(1) The nature and notoriety of the character or background of the person.

(2) The history and nature of the involvement of the person with licensed gaming in this Commonwealth or another jurisdiction, or with a particular slot machine

licensee or licensees or an affiliate, intermediary, subsidiary or holding company thereof.

(3) The nature and frequency of contacts or associations of the person with a slot machine licensee or licensees, or with employees or agents thereof.

(4) Any other factor reasonably related to the maintenance of public confidence in the efficacy of the regulatory process and the integrity of gaming operations, the gaming industry and its employees.

(d) A person's race, color, creed, national origin or ancestry, or sex will not be a reason for placing the name of a person upon the exclusion list.

§ 511a.4. Duties of the Bureau.

(a) The Bureau will, on its own initiative, or upon referral by a law enforcement agency or a slot machine licensee investigate a person to determine whether the person meets the criteria for exclusion provided in section 1514 of the act (relating to regulation requiring exclusion of certain persons) and § 511a.3 (relating to criteria for exclusion).

(b) If, upon completion of an investigation, the Bureau determines that an individual should be placed on the exclusion list, the Bureau will file a petition for exclusion with the Board, identifying the candidate and

setting forth a factual basis for the petition. The petition shall include information demonstrating that the individual satisfies the criteria for exclusion set forth under section 1514 or 1515 of the act (relating to repeat offenders excludable from licensed gaming facility) or this chapter.

(c) When the Bureau files a complaint alleging a violation of section 1514(e) of the act and § 511a.8(b)(2) (relating to duties of slot machine licensees) against a slot machine licensee, the Bureau will file simultaneously a petition to exclude the person alleged in the complaint to meet the criteria for exclusion under § 511a.3.

§ 511a.5. Placement on the exclusion list.

(a) A person may be placed on the exclusion list:

(1) Upon the filing of a petition for exclusion by the Bureau in accordance with the procedures under § 511a.4 (relating to duties of the Bureau).

(2) Upon receipt of an order from a court of competent jurisdiction within this Commonwealth, excluding the person from licensed facilities.

(b) The placement of a person on the exclusion list shall have the effect of requiring the exclusion or ejection of the excluded person from licensed facilities.

(c) An excluded person may not collect in any manner

or in any proceeding any winnings or recover any losses arising as a result of any gaming activity for the entire period of time that the person is on the Board's exclusion list.

(d) Any winnings incurred by an excluded person shall be remitted to the Board to support compulsive and problem gambling programs.

(e) For the purposes of this section, any winnings issued to, found on or about, or redeemed by an excluded person shall be presumed to constitute winnings subject to remittance to the Board.

§ 511a.6. Demand for hearing on the placement of a person on the exclusion list.

(a) Upon placement of a person on the exclusion list, the Clerk will serve notice of the placement to the person by personal service or certified mail at the last known address of the person. When the placement is a result of a petition for exclusion filed by the Bureau, a copy of the petition will be included with the notice.

(b) Upon service of the notice by the Clerk, an excluded person shall have 30 days to demand a hearing before the Board. Failure to demand a hearing within 30 days after service shall be deemed an admission of all

matters and facts alleged in the Bureau's petition for exclusion.

(c) If a hearing is demanded by the excluded person, a hearing will be scheduled as provided in § 492a.6 (relating to hearings generally). At the hearing, the Bureau will have the affirmative obligation to demonstrate that the excluded person satisfies the criteria for exclusion in section 1514 or 1515 of the act (relating to regulation requiring exclusion of certain persons; and repeat offenders excludable from licensed gaming facility) or § 511a.3 (relating to criteria for exclusion). Unless the matter is heard directly by the Board, the presiding officer will prepare a recommendation as provided in § 494a.4 (relating to report or recommendation of the presiding officer) for consideration by the Board.

§ 511a.7. Board review.

After a hearing or consideration of a petition for exclusion filed by the Bureau when no hearing was requested, the Board will:

(1) Issue a final order affirming the placement of the person on the exclusion list.

(2) Issue a final order removing the person from the exclusion list.

(3) Refer the matter to the presiding officer for further hearing.

§ 511a.8. Duties of slot machine licensees.

(a) A slot machine licensee shall have the responsibility to distribute copies of the exclusion list to its employees. Additions, deletions or other updates to the list shall be distributed by a slot machine licensee to its employees within 2 business days of the slot machine licensee's receipt of the updates from the Board.

(b) A slot machine licensee shall exclude or eject the following persons from its licensed facility:

(1) An excluded person.

(2) A person known to the slot machine licensee to satisfy the criteria for exclusion in section 1514 of the act (relating to regulation requiring exclusion of certain persons) and § 511a.3 (relating to criteria for exclusion).

(c) If an excluded person enters, attempts to enter, or is in a licensed facility and is recognized by employees of the slot machine licensee, the slot machine licensee shall immediately notify the Bureau of the fact in accordance with the procedures set forth by the Board.

(d) It shall be the continuing duty of a slot machine licensee to inform the Bureau, in writing, of the names of

persons the slot machine licensee believes are appropriate for placement on the exclusion list and the reason for placement on the exclusion list.

(e) A slot machine licensee or employees thereof will not be liable to any person for damages in a civil action, which is based on the following:

- (1) Withholding winnings from an excluded person.
- (2) Permitting an excluded person to gamble.
- (3) Excluding an excluded person from the licensed gaming facility.

§ 511a.9. Petition to remove name from the exclusion list.

(a) An excluded person may file a petition with the Clerk to request a hearing for removal of his name from the exclusion list at any time after 5 years from the placement of his name on the exclusion list.

(b) The petition must be signed by the excluded person, contain supporting affidavits, and state the specific grounds believed by the petitioner to constitute good cause for removal from the exclusion list. Upon receipt of the petition, the Bureau may file an answer in accordance with § 493a.5 (relating to answers).

(c) The Board may decide the petition on the basis of the documents submitted by the excluded person and the Bureau. The Board may summarily deny the petition, may

grant the petition, or direct that a hearing be held in accordance with § 511a.6 (relating to demand for hearing on the placement of a person on the exclusion list). The Board will grant the petition or direct that a hearing be held only upon a finding that there is new evidence, which is material and necessary, or that circumstances have changed since the placement of the excluded person on the exclusion list, and that there would be a reasonable likelihood that the Board would alter its previous decision.

(d) An excluded person who is barred from requesting a hearing concerning his removal from the exclusion list by the 5-year period of exclusion in subsection (a) may petition the Board for early consideration at any time. However, an excluded person may not, within the 5-year period of exclusion, file more than one petition for early consideration.

(e) A petition for early consideration must contain the information required by subsection (b). Upon receipt of the petition, the Bureau may file an answer in accordance with § 493a.5 (relating to answers).

(f) The Board may decide the petition for early consideration on the basis of the documents submitted by the excluded person and the Bureau. The Board may summarily

deny the petition or may grant the petition and direct that a hearing be held in accordance with § 511a.6.

(g) The Board will consider the following criteria when making its decision on a petition for early consideration:

(1) Whether there are extraordinary facts and circumstances warranting early consideration of the excluded person's request for removal from the exclusion list.

(2) If exclusion was ordered under § 511a.5(a)(2) (relating to placement on the exclusion list), whether the excluded person has completed the period of probation or otherwise satisfied the terms of the court-ordered exclusion.

ANNEX A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

SUBPART J. EXCLUSION

CHAPTER 513a. UNDERAGE GAMING

§ 513a.1. Definitions.

§ 513a.2. Exclusion requirements.

§ 513a.3. Responsibilities of licensees, permittees, registrants and certification holders.

§ 513a.4. Signage requirements.

§ 513a.5. Enforcement.

§ 513a.1. Definitions.

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

Fully executed gaming transaction – An activity involving a slot machine or associated equipment which occurs on the gaming floor of a licensed facility and which results in an individual obtaining any money or thing of value from, or being owed any money or thing of value by, a slot machine licensee.

Winnings – Any money or thing of value received from, or owed by a slot machine licensee as a result of a fully executed gaming transaction.

§ 513a.2. Exclusion requirements.

(a) An individual under 18 years of age may not enter or be on the gaming floor of a licensed facility.

(b) An individual under 21 years of age, whether personally or through an agent, may not operate, use, play or place a wager on, a slot machine in a licensed facility.

(c) An individual under 21 years of age may not receive check cashing privileges, be rated as a player, or receive any complimentary service, item or discount as a result of, or in anticipation of, gaming activity.

(d) An individual under 21 years of age may not collect in any manner or in any proceeding, whether personally or through an agent, winnings or recover losses arising as a result of any gaming activity.

(e) Winnings incurred by an individual under 21 years of age shall be remitted to the Board to support compulsive and problem gambling programs.

(f) For the purposes of this section, winnings issued to, found on or about or redeemed by an individual under 21 years of age shall be presumed to constitute winnings and be subject to remittance to the Board.

§ 513a.3. Responsibilities of licensees, permittees, registrants and certification holders.

(a) A person holding a license, permit, certification or registration issued by the Board is prohibited from permitting or enabling an individual to engage in conduct that violates § 513a.2(a), (b), (c) or (d) (relating to exclusion requirements).

(b) Slot machine licensees shall establish procedures that are designed to prevent violations of this chapter and submit a copy of the procedures to the Board 30 days prior to initiation of gaming activities at the licensed facility. The slot machine licensee may not commence operations until the Board approves its procedures. Amendments to these procedures must be submitted to and approved by the Board prior to implementation.

(c) A slot machine licensee may be subject to Board imposed administrative sanctions if a person engages in conduct that violates § 513a.2(a), (b), (c) or (d) at its licensed facility. Under § 513a.2(e), winnings obtained by a slot machine licensee from or held on account of a person under 21 years of age shall be remitted to the Board and deposited into the Compulsive and Problem Gambling Treatment Fund.

(d) A person holding a license, permit, registration or certification issued by the Board who violates a

provision of this chapter may be held jointly or severally liable for the violation.

§ 513a.4. Signage requirements.

A slot machine licensee shall post signs that include a statement that is similar to the following: "It is unlawful for any person under 21 years of age to engage in any gaming activities. Individuals violating this prohibition will be removed and may be subject to arrest for criminal trespass under 18 Pa.C.S. § 3503 (relating to criminal trespass)." The complete text of the sign shall be determined by the Board. The signs shall be prominently posted within 50 feet of each entrance and exit of the gaming floor.

§ 513a.5. Enforcement.

In a prosecution or other proceeding against a person for a violation of this chapter, it shall not be a defense that the person believed an individual to be 21 years of age or older.

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED

2007 MAR 28 PM 12: 46

I.D. NUMBER: 125-57

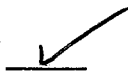
DATE: 3/28/07

INDEPENDENT REGULATORY
REVIEW COMMISSION

SUBJECT: Subpart J. Chapter(s) 511a and 513a

AGENCY: Pennsylvania Gaming Control Board

TYPE OF REGULATION



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

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

1.

03/28/2007

Julie B. Brown

House Gaming Oversight
Committee

3/28/07

Norman Anderson

2.

3/28/07

James A. Ryhl

Senate Community, Economic
& Recreational Committee

3/28/07

Kristi Kreiser

3.

3/28/07

Dr. Helmut

Independent Regulatory Review
Commission

4.

03/28/07

C. De. Brown

Legislative Reference Bureau