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# 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 - 72

IRRC Number:

2646

(3) Short Title

Amendments to Chapters 421a and 423a

(4) PA Code Cite

58 PA. Code  
Chapters 421a and 423a

(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.

These amendments add a new section to Chapter 421a relating to advertising and add new provisions for abandoned applications to § 423a.a.

(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.

## Regulatory Analysis Form

(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.

No.

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

The amendments to Chapter 421a establish rules to protect the general public from inappropriate advertising by slot machine, manufacturer and junket licensees.

Promulgation of the amendments to Chapter 423a are necessary to establish a new process for dealing with abandoned applications.

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

Without these regulations slot machine, manufacturer and junket licensees will not have clear guidance concerning advertising practices.

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

Slot machine, manufacturer and junket licensees will have a clearer understanding of what are acceptable advertising practices. There are 11 currently approved slot machine licensees; 16 licensed manufacturers and no licensed junkets.

Applicants whose applications are deemed abandoned will be able to apply for a license, permit or registration immediately thereby increasing their ability to be employed in the gaming industry.

The Board anticipates there will be about 100 applications abandoned annually. This number may be higher in any year where a new licensed facility opens because of the increased number of gaming permit and nongaming registration applications.

### Regulatory Analysis Form

(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 add clarity, no one will be adversely affected by these changes.

(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.)

Slot machine, manufacturer and junket licensees will have to comply with these regulations. There are 11 currently approved slot machine licensees; 16 licensed manufacturers and no licensed junkets.

(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.

No specific public input was solicited prior to the proposal of these amendments.

(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.

The Board anticipates that there will be no significant costs or savings to the regulated public as a result of these amendments.

### Regulatory Analysis Form

(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.

The Board anticipates that there will be no significant costs or savings to local governments as a result of these amendments.

(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 anticipates that there will be no significant costs or savings to state government as a result of these amendments.

## 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.

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

(20a) Explain how the cost estimates listed above were derived.

The Board anticipates that there will be no significant costs or savings as a result of the adoption of these amendments.

## Regulatory Analysis Form

(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	\$2,900,000	\$13,200,000	\$26,400,000	\$29,984,000

(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, there are no anticipated costs or savings-associated with these amendments.

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

There were no alternatives considered because the current regulations could only be changed by amending the current regulations.

(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.

## Regulatory Analysis Form

(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?

Nothing in these amendments 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 amend existing provisions in Chapters 421a and 423a 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 have been scheduled.

### Regulatory Analysis Form

(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 amendments do not change or add new reporting, record keeping or paperwork requirements.

(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.

No special provisions have been added.

(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 early in 2008.

(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.



**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE  
BUREAU**

**(Pursuant to Commonwealth Documents Law)**

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

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

By: *Anthony J. Elia*  
(Deputy Attorney General)

**OCT 10 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- 72

DATE OF ADOPTION: 9/12/07  
BY: *Mary DiGiacomo*  
Mary DiGiacomo Collins, CHAIRMAN

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

BY: *Frank Donaghue*  
Frank Donaghue, Chief Counsel

9/12/07  
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, SUBPART B  
CHAPTERS 421a & 423a**

## ANNEX A

### PENNSYLVANIA GAMING CONTROL BOARD

#### [58 PA.CODE CHAPTERS 421a and 423a]

#### GENERAL PROVISIONS; AND APPLICATIONS

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) proposes to amend Chapters 421a and 423a (relating to general provisions; and applications) to read as set forth in Annex A.

#### *Purpose of the Proposed Rulemaking*

These amendments add a new section relating to advertising and new provisions for abandoned applications.

#### *Explanation of Amendments to Chapters 421a and 423a*

Currently, the Board has included provisions related to advertising in the statement of conditions that slot machine and manufacturer licensees must execute as part of the licensing process.

This rulemaking will add a new § 421a.6 to Chapter 421a which: allows the Board to require slot machine, manufacturer and junket licensees to cease using inappropriate advertising; defines what will be considered to be advertising; prohibits the use of false or misleading information; requires the inclusion of a toll-free gambling assistance telephone number in any advertisement which must be approved utilizing the process contained in § 501a.2(g) (relating to compulsive and problem gambling); and bars slot machine, manufacturer and junket licensees from using individuals or virtual facsimiles thereof to induce patrons to engage in gaming or play a specific slot machine.

This proposed rulemaking will also amend § 423a.4 (relating to deficient applications) by adding new provisions governing abandoned applications.

The Board has found that after it sends a notice of a deficiency concerning an application, applicants, particularly gaming permit and nongaming employee registration applicants, often times do not submit the requested materials. This may be

because they can't obtain the necessary items or circumstances have changed and they no longer have an interest in pursuing their application. While the Board's regulations allow these applicants to file a petition to withdraw their application, many applicants simply do nothing.

Under the current regulation, the Board can deny these applications. However, if the Board denies these applications, the applicants are subject to the 5-year bar on filing a new application under § 423a.7 (relating to restriction on application after denial or revocation).

To give the Board another option for handling these applications, new provisions have been added to this section which will allow the Board to declare an application abandoned when an applicant fails to follow-up on requests for information. If an application has been deemed to be abandoned, the applicant will be so notified. However, unlike a denial, the applicant will be allowed to file a new application for a license, permit or registration immediately.

#### *Affected Parties*

Slot machine, manufacturer and junket licensees will be required to cease using inappropriate advertising upon receipt of written notice from the Board and will have to have the language relating to a toll-free gambling assistance telephone number that will be used in any advertisement approved by the Director of the Office of Compulsive and Problem Gambling. There are 11 currently approved slot machine licensees, 16 licensed manufacturers and no licensed junkets.

Applicants whose applications are deemed abandoned, instead of being denied, will be able to file a new application immediately instead of having to wait five years.

#### *Fiscal Impact*

#### *Commonwealth*

There will be no new costs to the Board or other Commonwealth agencies as a result of this regulation. The Director of the Office of Compulsive and Problem Gambling currently reviews the toll-free gambling assistance telephone number message that is used in advertisements.

#### *Political Subdivisions*

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

#### *Private Sector*

The Board anticipates that there will be no significant new costs or savings to slot machine, manufacturer and junket licensees as a result of these amendments because they reflect existing requirements.

Applicants whose applications are deemed abandoned will be able to apply for a license, permit or registration immediately thereby increasing their ability to be employed in the gaming industry.

#### *General Public*

This proposed rulemaking will have no fiscal impact on the general public.

#### *Paperwork requirements*

The proposed amendments do not change or add new reporting, record keeping or paperwork requirements.

#### *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 #125-72.

#### *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 October 15, 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.

MARY DIGIACOMO COLINS,  
Chairman

Annex A

Title 58. RECREATION

PART VII. GAMING CONTROL BOARD

SUBPART B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 421a. GENERAL PROVISIONS.

\* \* \* \* \*

§ 421a.6. Advertising.

(a) Slot machine, junket and manufacturer licensees will be required to discontinue as expeditiously as possible the use of a particular advertisement or promotion upon receipt of written notice from the Board that the Board has determined that the use of the particular advertisement or promotion in, or with respect to, Pennsylvania is not within the spirit or intent of the act.

(b) For purposes of this section, the term "advertisement" shall mean marketing materials including signs, billboards, print, radio and television advertisements and any notice or communication by a slot machine, junket or manufacturer licensee or its agent to the public of information concerning the gaming-related business of a slot machine licensee through broadcasting, publication, mailing or other means of dissemination.

(c) Advertisements used by slot machine, junket or manufacturer licensees shall not contain false or misleading information. No advertisement shall:

(1) Use a font, type size, location, lighting, illustration, graphic depiction or color obscuring any material fact.

(2) Fail to disclose any material conditions or limiting factors associated with the advertisement.

(d) Advertisements shall contain a statement that is similar to the following: "If you or someone you know has a gambling problem, help is available. Call (toll-free telephone number)." The complete text of the statement and type size to be used for the statement shall be submitted to the Director of the Office of Compulsive and Problem Gambling for approval utilizing the process contained in § 501a.2(g) (relating to compulsive and problem gambling plan).

(e) No slot machine, junket or manufacturer licensee or an agent thereof shall employ or contract with an individual, or use a virtual facsimile thereof, at a licensed facility to induce a person to engage in gaming or play a specific slot machine.

#### CHAPTER 423a. Applications.

\* \* \* \* \*

#### § 423a.4. Deficient and abandoned applications.

(a) If an application is found to be deficient, the Board will notify the applicant of the deficiencies in the application

and permit the applicant to cure the deficiencies within a time period prescribed by the Board.

(b) [Refusal] Failure to provide the information necessary to cure the deficiencies required under subsection (a) may result in the immediate denial of the application or in the application being declared abandoned.

(c) When an application is denied or declared abandoned under subsection (b), the applicant will be given written notice of this action by the Board. An applicant whose application is denied will be subject to the restrictions on filing a new application in § 423a.7 (relating to restriction on application after denial or revocation). An applicant whose application has been declared abandoned may file a new application at any time.



**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 125-72

DATE: 10/15/07

SUBJECT: Subpart B. Chapters 421a & 423a

AGENCY: Pennsylvania Gaming Control Board

**TYPE OF REGULATION**

X

Proposed Regulation

\_\_\_\_\_

Final-Form 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. 10/15/07

[Signature]

**House Gaming Oversight  
Committee**

2. 10/15/07

[Signature]

3. 10-15-07

[Signature]

**Senate Community, Economic  
& Recreational Committee**

4. 10-15-07

[Signature]

5. 10/15/07

[Signature]

**Independent Regulatory Review  
Commission**

6. 10/15/07

[Signature]

**Legislative Reference Bureau**

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