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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

March 9, 2011

Kevin O'Toole, Executive Director
Pennsylvania Gaming Control Board
Strawberry Square
Verizon Tower, 5th Floor
Harrisburg, PA 17106-9060

Re: Regulation #125-137 (IRRC #2884)
Pennsylvania Gaming Control Board
Table Game Equipment

Dear Mr. O'Toole:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director
wbg
Enclosure

cc: Honorable Jane M. Earll, Majority Chairman, Senate Community, Economic and
Recreational Development Committee
Honorable Wayne D. Fontana, Minority Chairman, Senate Community, Economic and
Recreational Development Committee
Honorable Curt Schroder, Majority Chairman, House Gaming Oversight
Honorable Rosita C. Youngblood, Minority Chairman, House Gaming Oversight
Robert A. Mulle, Esq., Office of Attorney General
Andrew Clark, Esq., Office of General Counsel

Comments of the Independent Regulatory Review Commission



Pennsylvania Gaming Control Board Regulation #125-137 (IRRC #2884)

Table Game Equipment

March 9, 2011

We submit for your consideration the following comments on the proposed rulemaking published in the January 8, 2011 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Gaming Control Board (Board) to respond to all comments received from us or any other source.

1. Determining whether the regulation is in the public interest; Need.

This proposed rulemaking will rescind a temporary regulation relating to table game equipment and establish a permanent regulation on the same subject matter. Both the temporary regulation and this proposed regulation are very detailed documents that set forth the minimum design standards for gaming chips, plaques, dice, cards, shufflers, Pai Gow tiles and Sic Bo shakers and address the requirements on the receipt, storage, distribution, inventory and destruction of the equipment.

We understand that the Board is charged with ensuring the integrity of gaming. However, neither the temporary regulation nor the proposed regulation adequately explains why such a descriptive rule is needed. For each of the 18 sections contained in the proposed rulemaking, we ask the Board to provide a more detailed description of the rulemaking, how it was developed or what it is based on, and why it is needed. This background information will assist this Commission in determining if the regulation is in the public interest.

2. Implementation procedures.

This proposed rulemaking includes references to regulations that have not been promulgated. The sections of this rulemaking that include the references are: §§ 603a.10 (g); 603a.16(d); 603a.17(c); and 603a.17(f). It is our understanding that the references are to other Board table game regulations

that will be promulgated in the near future. We are concerned that this rulemaking will be finalized before the other regulations are finalized. If this occurs, it could lead to a confusing regulatory environment for those that must comply with the rulemaking. In the Preamble to the final version of this rulemaking, we ask the Board to explain its plan for promulgating all of these regulations in a manner that ensures all references are valid.

3. Clarity and lack of ambiguity.

Throughout this proposed rulemaking, licensed facilities that hold a table game operation certificate (certificate holder) or manufacturers and suppliers may be required to obtain certain approvals or authorizations from the Board's Bureau of Gaming Operations (Bureau). For example, under § 603a.2(b)(1), a certificate holder must obtain Bureau approval of design specifications for gaming chips. Under § 603a.3(a), a certificate holder may issue value chips in denominations other than those specifically enumerated if those other denominations are approved by the Bureau. While we understand and appreciate the need for regulatory flexibility, we are concerned that the proposed rulemaking, in many instances, does not include the procedures for obtaining the necessary Bureau approvals. To assist the regulated community in understanding how to submit requests for certain approvals, we suggest that the final form regulation include the procedures or an appropriate cross-reference to where the procedures can be found. We have identified the following sections that are problematic:

- § 603a.2(b)(1)
- § 603a.3(a)
- § 603a.3(c)
- § 603a.3(d)(2)
- § 603a.3(e)
- § 603a.3(h)
- § 603a.3(i)
- § 603a.4(b)(1)
- § 603a.4(b)(4)
- § 603a.4(c)(3)
- § 603a.5(b)
- § 603a.6(b)(1)
- § 603a.6(b)(5)
- § 603a.6(c)
- § 603a.7(e)(1)
- § 603a.7(e)(4)
- § 603a.8(g)
- § 603a.9(a)
- § 603a.9(b)(1)
- § 603a.9(b)(2)
- § 603a.9(e)
- § 603a.9(f)(2)
- § 603a.10(e)
- § 603a.10(m)
- § 603a.11(c)(3)
- § 603a.11(i) (note- authorized)
- § 603a.11(j)
- § 603a.12(b)(2)
- § 603a.13(a)
- § 603a.13(e)(2)
- § 603a.13(f)(1)(ii)
- § 603a.13(f)(2)(ii)
- § 603a.13(f)(3)(iii)
- § 603a.13(f)(3)(v)(B)
- § 603a.13(f)(3)(viii)
- § 603a.13(k)
- § 603a.13(l)
- § 603a.13(o)(3)

- § 603a.15(c)
- § 603a.15(f)
- § 603a.15(g)
- § 603a.16(a)
- § 603a.16(f)
- § 603a.16(j)(3)
- § 603a.16(q)(1)(ii)
- § 603a.16(q)(3)(i)
- § 603a.16(s)(3)
- § 603a.16(u)(3)
- § 603a.16(u)(6)
- § 603a.16(u)(8)(ii)
- § 603a.16(v)
- § 603a.17(e)
- § 603a.17(f)
- § 603a.18(a)
- § 603a.18(e)(2)
- § 603a.18(n)

4. Section 603a.1. Definitions. – Clarity.

The Board’s temporary regulations provide a definition for the term “nonvalue chip.” (See 58 Pa. Code § 523.1, relating to definitions.) The proposed regulation does not define the term “nonvalue chip” but does define the term “Roulette chip” as “a nonvalue chip which does not contain a denomination on either face which is used for wagering at the game of Roulette.” A commentator has noted that the term “nonvalue chip” provides more regulatory flexibility than the term “Roulette chip.” We note that the term “nonvalue chip” is also used in § 603a.4(b)(4)(i) and suggest that a definition of this term would add clarity to the regulation.

5. Section 603a.3. Value chips; denominations and physical characteristics. – Clarity.

Subsection (k) requires value chips with a denomination of \$25 or more to contain at least three “anticounterfeiting measures.” We suggest that the term “anticounterfeiting measure” be defined.

6. Section 603a.5. Roulette chips; permitted uses, inventory and impressment. – Clarity.

The term “impressment” is used throughout this section of the regulation. We recommend that it be defined.

7. Section 603a.8. Additional sets of gaming chips. – Clarity.

Subsections (c) through (f) of this section pertain to procedures that certificate holders must follow if counterfeit chips are discovered. To improve the clarity of the rulemaking, we suggest that these subsections be moved to a separate section pertaining to procedures that must be followed when counterfeit chips are discovered.

8. Section 603a.9. Plaques; issuance and use; denominations and physical characteristics. – Clarity.

The term “plaque” is used throughout this section and other sections of the regulation. We recommend that it be defined.

9. Section 603a.10. Exchange and redemption of gaming chips and plaques. – Need; Reasonableness; Implementation procedures.

Subsection (h) includes the following sentence: “A certificate holder shall have the right at any time to demand that a person in possession of a gaming chip or plaque surrender the gaming chip or plaque for redemption in accordance with subsection (i).” Why is this provision included in the regulation? Under what circumstances would a certificate holder demand that a patron redeem gaming chips or plaques? How will this provision be implemented if a patron does not comply with the certificate holder’s request?

10. Section 603a.11. Receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques. – Need.

Subsection (d) prohibits gaming chips or plaques from being stored in the same storage area as dice, cards, Pai Gow tiles or any other gaming equipment. What is the reason and need for this prohibition?

11. Section 603a.13. Dice; receipt, storage, inspection and removal from use. – Reasonableness; Implementation procedures.

Subsection (o) requires the destruction or cancellation of dice to occur within 72 hours of being collected. A commentator has suggested that 72 hours may not be enough time for a certificate holder to conduct investigations if cheating is suspected. We ask the Board to explain why a 72-hour time period is appropriate and why it was selected. We have a similar concern with § 603a.18(p), relating to the destruction or cancellation of Pai Gow tiles.

12. Section 603.15. Cards; physical characteristics. – Need; clarity.

We have two concerns with this section. First, under Subsection (g)(2), why must the label on the packaging of multiple decks of cards include the game for which cards are to be used?

Second, Subsection (i) pertains to additional requirements for cards used to play “Poker.” Does the term “Poker” refer to all of the various types of Poker listed in the statutory definition of “table games” in Section 1103 of Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S. § 1103)? This should be clarified in the final-form regulation.

13. Section 603a.17. Dealing shoes; automated card shuffling devices. – Reasonableness.

Subsection (h) states that an automated shuffling device may not collect information or track cards that have been played. A commentator has stated that it produces a device that tracks cards for investigative purposes. Would a certificate holder be allowed to use a device that tracks certain information for investigative purposes only? If so, the regulation should specify under what conditions such a device can be used.

14. Section 603a.18. Pai Gow tiles; receipt, storage, inspection and removal from use. – Economic or fiscal impact; Reasonableness.

Under Subsection (g), if a certificate holder discovers that a tile is damaged, the entire set of tiles must be replaced. A commentator has stated that replacing all of the tiles is expensive and not needed. We ask the Board to quantify the cost of replacing one tile compared to replacing all the tiles. Would the integrity of gaming be jeopardized if only the damaged tile was replaced?

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Facsimile Cover Sheet

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Date: March 9, 2011
Pages: 7

Comments: We are submitting the Independent Regulatory Review Commission's comments on the Pennsylvania Gaming Control Board's regulation #125- 137 (IRRC #2884). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: Mike Spiller PGCB **Date:** 9 March 2011