

HOUSE OF REPRESENTATIVES

DEMOCRATIC COMMITTEE BILL ANALYSIS

Bill No: HB1098 PN2580
Committee: Gaming Oversight
Sponsor: Payne, John D.
Date: 2013-06-20

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A. Brief Concept

Makes specific changes to the Local Option Small Games of Chance Act by permitting non-profit organizations affiliated with professional sports teams and racetracks to conduct 50/50 raffles, updating certain reporting requirements for club licensees, and allowing for bars and restaurants to conduct tavern games.

B. Analysis of the Bill

Earlier this year, House Bill 1098 was amended by the Senate Community, Economic, and Recreational Development Committee with a gut and replace amendment. ***On Oct. 22, 2013, the Senate Rules Committee adopted an amendment to reflect the "negotiations" on the bill. This summary reflects these changes, and is the most recent analysis of the bill.***

Major League Sports 50/50 raffles:

As amended by the Senate, House Bill 1098 would allow for non-profit organizations affiliated with all professional sports teams, as well as racing facilities in the Commonwealth, who have a "home" field or racing stadium, grandstand or bleacher at a closed course motor facility, to hold charity 50/50 raffles at home games. The racing facilities must be a facility where spectators are directly observing motor races with NASCAR, Indy, stock or drag racing cars.

The Senate version of the bill also allows Major League Sports drawings to be conducted by the affiliated nonprofit organization during a charitable event held at the same "home" field or racing facility of the major league sports team.

In addition, the Senate version would cap the expenses for affiliated nonprofit associations in conducting the drawing, such as to employ sellers of the tickets, administrative expenses, etc., at 2% of the total amount collected.

Club licensees:

The bill, as amended by the Senate, would change the reporting requirement for club licensees, organization with liquor licenses, by stating that a club licensee that has proceeds under \$30,000 would be exempt from submitting an annual report. These club licensees would also be exempt from submitting background checks with their Small Games of Chance application.

The amended version of the bill would also allow a club licensee's proceeds from games of chance to be subject to a 60/40 distribution restriction -- where at least 60 percent of proceeds must go to public interest purposes, and no more than 40 percent of the proceeds can be used for operating expenses. It also would add language to include personnel as a business expense, but this does not include a bartender or someone who operates a small game of chance.

The distribution of funds for public interest purposes would have to be paid out within one year of the end of the calendar year in which the proceeds were obtained.

In addition, the bill repeals the provision of the Act that states that a club licensee shall maintain records relating to the printing or purchase of raffles tickets.

The bill would require the Department of Revenue to conduct random audits of 5% of all club licensees.

Tavern Gaming:

The Senate amended version of the bill would allow a restaurant licensee, which is defined as a "for-profit hotel, restaurant, privately owned public golf course, brew pub or micro brewery licensed to sell liquor under the Liquor Code, to conduct tavern games at a licensed premise. Tavern games would include pull-tab games, daily drawings or tavern raffles.

The Senate also amended the bill to exempt grocery stores and places that sell liquid fuels or oil (gas stations) from being considered as a restaurant licensee. The definition of grocery store, however, does not specify an exemption for restaurant licensees with an interior connection to a grocery store..

Tavern Gaming Licensing and Application:

The bill would require a restaurant licensee to submit an application to the Pennsylvania Liquor Control Board. The Board would have six months from the date the application is received to approve or disapprove the application.

During the application process, the Bureau of Investigations and Enforcement of the Pennsylvania Gaming Control Board, in conjunction with Pennsylvania Liquor Control Board, would require consent from the applicant and would then conduct a background investigation. The Bureau would then make a recommendation to the Board based on the outcome of the investigation. The costs of the background check would be covered by the applicant. Also, during this process, the applicant would be required to disclose all arrests and citations for non-traffic summary offenses.

The bill would require an application fee of \$1,000, with an additional license fee of \$2,000 and yearly renewal fee of \$1,000, if and when the application is approved.

The bill would prohibit the transfer of a tavern games license if there was a change in ownership of the premises of the restaurant license. The new owners would be required to independently apply and qualify for a license, pay the license fee and undergo and pay for a background investigation.

Tavern Gaming Prize Limits and Bank Account:

The bill would set the maximum individual prize limit for any single chance at \$2,000. Also, no more than \$35,000 in prizes may be awarded per week.

Also, the bill would require that a licensee maintain a separate bank account to hold the net revenues of tavern games separate from all other funds. Bank account records would be required to show all expenditures and income and shall be retained for at least two years.

Tavern Games:

The bill would allow for licensees to offer "tavern games" -- which includes pulltabs, daily drawings and tavern raffles. Except for tavern raffles, the proceeds from tavern games would be subject to a 60/40 split -- where 60 percent of the net revenues obtained in a year would be paid to the Commonwealth and 40 percent retained by the licensee.

Tavern Raffle:

Under the proposal, a licensee would be able to offer one "tavern raffle" per month. These raffles would

be designated for a dedicated and advertised charitable purpose. Within seven days of the raffle, at least 50 percent of the net revenues must be given to the advertised designated charity. The other 50 percent would then be subject to the 60/40 split assessed to all other "tavern games" -- where 60 percent would be paid to the Commonwealth, and 40 percent retained by the licensee.

Tavern Games Tax:

The Senate Rules Committee added a section pertaining to a "tavern games tax" -- which would be 60 percent of the net revenue from tavern games sold by a licensed distributor to a tavern game licensee.

Net revenue is defined in the bill as the difference between the face value, as indicated by the manufacturer, collectible by a licensee from a tavern game and the maximum amount of prizes payable, as indicated by the manufacturer, by a licensee from a tavern game.

For games not required to be purchases from a licensed distributor, for instance raffles and daily drawings, a tax of 60 percent would be imposed upon the net revenue and would be required to be paid to the state by the licensee.

A licensee or licensed distributor subject to the tavern game tax would be required to file with the department of revenue a tavern game tax return. Payment of the tax calculated would be required to be paid when the tavern games tax return is made.

The bill provide penalties for failure to pay the required tavern games tax.

The total amount of taxes imposed by the tavern game tax would be deposited into the General Fund.

Reports and Enforcement:

The bill would provide that a licensee shall submit annual reports to the Department of Revenue for the prior year on a form designated by the Department.

Also, the Board may suspend or revoke a license following a notice and hearing, as well as impose a civil penalty for violation under this chapter; up to \$1,000 for the first violation and up to \$3,000 for a second or subsequent violation.

The bill also provides for criminal penalties, which would be a misdemeanor of the third degree for a first offense, and a misdemeanor of the second degree for a second or subsequent violation. Also an Administrative Law Judge under the Liquor Code, may impose the penalties under this proposal following the issuance of a citation by the Bureau of Liquor Control Enforcement.

The Senate version of the bill also prohibits restaurant licensees who are part of a casino, or part of a major league sports team facility, from obtaining a tavern games license. Also, establishments that have been decreed as nuisances pursuant to the Liquor Code, would also be prohibited from receiving a tavern games license.

State Lottery:

The bill would require the Department of Revenue to submit an annual report on the State Lottery Fund and the impact o small games of chance on the Fund, to the majority and minority chairman of the House and Senate Appropriations committees.

Effective Date:

The provisions of this bill relating to major league sports drawings, major league sports teams and charitable events would take effect immediately.

The remainder of the act would take effect in 60 days.

C. Relevant Existing Law

Act 2 of 2012 and Act 184 of 2012 made significant changes to the Local Option Small Games of Chance Act by increasing prize limits for games of chance, allowing certain organizations to use proceeds from games of chance for specified purposes, and enhancing reporting requirements and enforcement of the Act.

D. Prior Session (Previous Bill Numbers & House/Senate Votes)

Last session, House Bill 169 (Act 2) -- voted 178-10 on final passage in the House and 44-6 in the Senate and Senate Bill 444 (Act 184) -- voted on final passage in the House 182-12 and 46-3 in the Senate. This session, House Bill 290 -- voted 186-10 on final passage in the House. The bill was referred to Senate Community, Economic & Recreational Development committee on March 8th, 2013. It was reported as amended on June 19th, 2013 by a vote of 13-1. Currently, it is in the Senate Appropriations Committee before being voted on 3rd consideration by the Senate.

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