

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 401, 423, 465 AND 481]

Temporary Regulations; Bond or Letter of Credit Requirements

Under the Pennsylvania Gaming Control Board's (Board) Resolution No. 2005-3 REG, entitled Adoption of Temporary Regulations, dated June 16, 2005, and Resolution No. 2006-2 REG, entitled Adoption of Temporary Regulations for Accounting and Internal Controls Regulations, dated February 2, 2006, the Board has the authority to amend the temporary regulations, adopted on June 16, 2005, and February 2, 2006, as it deems necessary in accordance with the purpose of the act of July 5, 2004 (P. L. 572, No. 71) (Act 71) and to further the intent of Act 71. Therefore the Board has decided to make editorial changes to the temporary regulations, dated June 16, 2005, and February 2, 2006, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4045 (July 15, 2005) and 36 Pa.B. 910 (February 18, 2006).

Therefore, the Board has deposited with the Bureau amendments to §§ 401.3, 423.3, 465.1 and 481.1. The amendments are effective as of February 28, 2006.

The temporary regulations of the Board, Chapters 401, 423, 465 and 481, are amended by amending §§ 401.3, 423.3, 465.1 and 481.1 to read as set forth in Annex A.

The Board, acting under the authorizing statute, orders that:

(a) The Board acting under the authority of the Act 71, adopts the amendments to the temporary regulations, adopted by resolution at the February 28, 2006, public meeting. The amendments to the temporary regulations pertain to definitions and the bond or letter of credit requirements.

(b) The following temporary regulations of the Board, 58 Pa. Code, are amended: §§ 401.3, 423.3, 465.1 and 481.1, to read as set forth in Annex A.

(c) These amendments are effective on February 28, 2006.

(d) The amendments to the temporary regulations shall be posted in their entirety on the Board's website and in the *Pennsylvania Bulletin*.

(e) The Chairperson of the Board shall certify the preceding order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-17. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401. PRELIMINARY PROVISIONS

§ 401.3. Construction.

(a) This part shall be liberally construed to secure the just, speedy and efficient determination of every action,

proceeding or issue presented to which it is applicable. The Board at any stage of an action, proceeding or issue presented may disregard an error or defect of procedure which does not affect the substantive rights of the participants.

(b) The Board at any stage of an action, proceeding or issue presented may permit deviations from a requirement of this part when necessary or appropriate, if the deviation does not adversely affect a substantive right of a participant as determined by the Board.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.2 (relating to liberal construction).

Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

CHAPTER 423. APPLICATIONS

§ 423.3. License issuance and Statement of Conditions.

(a) *License issuance criteria.*

(1) In addition to any other criteria contained in the act, the Board will not issue or renew a license, certification, permit, registration or other authorization unless the Board finds that the following criteria have been established by the applicant:

(i) The applicant has developed and implemented or agreed to develop and implement a diversity plan, in accordance with Chapter 481 (relating to general provisions).

(ii) The applicant has paid all applicable fees.

(iii) The applicant has fulfilled each prerequisite condition set by the Board or contained in the act, including the execution of a Statement of Conditions.

(iv) The applicant in all other respects is found suitable consistent with the laws of the Commonwealth and is otherwise qualified to be issued a license, certification, permit, registration or other authorization.

(2) Nothing contained in the act or this part is intended or shall be construed to create an entitlement to a license, certification, permit, registration or other authorization by any person.

(b) *Statement of conditions.*

(1) In addition to any other conditions required or imposed by the Board, the Board may require that the following occur prior to the issuance of a license, certification, permit, registration or other authorization to any applicant:

(i) If the Board approves an entity's application for a license, certification, registration or other authorization from the Board, or for the renewal of a license, certification, registration or other authorization, the executive officer of the entity whose application has been approved, or other competent individual designated by the entity in accordance with paragraph (2), shall execute a Statement of Conditions in the manner and form required by the Board. Execution of the Statement of Conditions shall constitute the acceptance of each provision contained in the Statement of Conditions by both the entity and the executive officer. The executive officer shall ensure that the entity fully complies with each provision contained in the Statement of Conditions.

(ii) If the Board approves an individual's application for a license, certification, permit, registration or other authorization from the Board, or for the renewal of a license, certificate, registration or other authorization, the

individual whose application has been approved by the Board will execute a Statement of Conditions in the manner and form required by the Board. The execution of the Statement of Conditions shall constitute the acceptance of each provision contained in the Statement of Conditions by the individual. The individual shall fully comply with each provision contained in the Statement of Conditions.

(2) Prior to the issuance of a license, certification, permit, registration or other authorization to an entity, the entity shall determine whether its executive officer will execute the Statement of Conditions or whether the entity will designate another competent individual with a direct reporting relationship to its executive officer to execute the Statement of Conditions on behalf of both the entity and its executive officer. If the entity determines that it will designate another competent individual with a direct reporting relationship to its executive officer to execute the Statement of Conditions on behalf of the entity and its executive officer, the entity shall adopt a resolution identifying the individual so designated, authorizing that individual to execute the Statement of Conditions on behalf of both the entity and its executive officer, and evidencing the executive officer's concurrence in that individual's designation. A copy of the resolution, certified as true and correct, shall be provided to the Board and attached to the Statement of Conditions.

(3) Failure to fully comply with any provision contained in an executed Statement of Conditions shall constitute a violation of the Statement of Conditions and may result in the imposition of Board-imposed administrative sanctions against the person to whom the license, certification, permit, registration or other authorization was issued, and, in the case of an entity, against the entity and its executive officer.

(4) The term "executive officer" means the individual holding the highest ranking management position within the entity and authorized to contract on behalf of the entity.

**Subpart E. SLOT MACHINE TESTING,
CERTIFICATION AND CONTROL**

**CHAPTER 465. ACCOUNTING AND
INTERNAL CONTROLS**

§ 465.1. Definitions.

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

Gaming day—A period of time not to exceed 24 hours corresponding to the beginning and ending times of gaming activities for the purpose of accounting reports and determination by the central control computer system of gross terminal revenue. The beginning and ending times of the gaming day will be determined by the Board and will be uniform for all slot machine licensees.

(i) Prior to commencing gaming operations, each slot machine licensee shall submit to the Board, in writing, its hours of operation, which times must correspond to the portion of its gaming day it will be open to the public for the purpose of gaming activities. A slot machine licensee may not commence gaming operations until its hours of operation are approved by the Board.

(ii) Any change in a slot machine licensee's hours of operation must be noticed to the Board in advance of the change in writing or in an electronic format as approved by the Board.

**Subpart G. MINORITY AND WOMEN'S BUSINESS
ENTERPRISES**

CHAPTER 481. GENERAL PROVISIONS

§ 481.1. Statement of purpose, policy and applicability.

(a) This part establishes and prescribes the procedures for promoting and ensuring that licensed entities and applicants for licensure foster participation and diversity in all aspects of their operations in this Commonwealth.

(b) It is the policy of the Board to promote and ensure that licensed entities and applicants for licensure conduct all aspects of their operations in a manner that assures diversity of opportunity as follows:

(1) In the ownership, participation and operation of licensed entities in this Commonwealth.

(2) Through the ownership, participation and operation of business enterprises associated with or utilized by licensed entities.

(3) Through the provision of goods and services utilized by licensed entities.

(c) It is further the policy of the Board to promote and ensure diversity in employment and contracting by each licensed entity or applicant for a license, certification or registration and its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

(d) This chapter is applicable to an applicant for or holder of the following:

- (1) Slot machine license.
- (2) Manufacturer license.
- (3) Supplier license.
- (4) Vendor registration.
- (5) Vendor certification.
- (6) Junket license.
- (7) Management company license.

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