

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 401, 405, 421, 423, 435, 441 AND 493]

Temporary Regulations

Under the Pennsylvania Gaming Control Board's (Board) Resolution Nos. 2005-3 REG, 2005-4 REG and 2006-4 REG, the Board has the authority to amend the temporary regulations adopted on June 16, 2005, July 21, 2005, and March 16, 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. Accordingly, the Board has decided to make editorial changes to the temporary regulations, dated June 16, 2005, July 21, 2005, and March 16, 2006, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4045 (July 16, 2005), 35 Pa.B. 4543 (August 6, 2005) and 36 Pa.B. 1578 (April 1, 2006).

Therefore, the Board has deposited with the Bureau amendments to §§ 401.4, 401.5, 405.3, 421.1, 423.5, 435.1, 435.7, 441.19 and 493.5. The amendments are effective as of June 28, 2006. The temporary regulations of the Board in Chapters 401, 405, 421, 423, 435, 441 and 493 are amended by amending §§ 401.4, 401.5, 405.3, 421.1, 423.5, 435.1, 435.7, 441.19 and deleting § 493.5 to read as set forth in Annex A.

Order

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

(a) The Board, acting under the authority of Act 71, adopts the amendments to the temporary regulations adopted by resolution at the June 28, 2006, public meeting. The amendments to the temporary regulations pertain to definitions, the Bureau of Investigations and Enforcement, general licensing requirements, employees and hearings and appeals.

(b) The temporary regulations of the Board, 58 Pa. Code Chapters 401, 405, 421, 423, 435, 441 and 493, are amended by amending §§ 401.4, 401.5, 405.3, 421.1, 423.5, 435.1, 435.7, 441.19 and deleting 493.5 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(c) The amendments are effective June 28, 2006.

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

(e) The Chairperson of the Board shall certify this order and deposit the amendments to the temporary regulations with the Bureau as required by law.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-35. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401. PRELIMINARY PROVISIONS

§ 401.4. Definitions.

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

* * * * *

Key employee qualifier—Officers; directors; persons who directly or indirectly hold any beneficial interest in or ownership of an amount equal to 5% or more of an equity interest of an applicant or licensee; a person who has the ability to control the applicant or licensee, has a controlling interest in the applicant or licensee, elects a majority of the board of directors of the applicant or licensee, or otherwise has the ability to control the applicant or licensee; a lender, other than a bank or lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; an underwriter, other than an underwriter who will hold a security for less than 90 days; a financial backer whose holdings are valued at an amount equal to 5% or more of an equity interest in the applicant or licensee including holders of convertible bonds, the conversion of which would or does result in the owner holding 5% or more of an equity interest in the applicant or licensee; employees of a slot machine applicant or licensee, manufacturer applicant or licensee or supplier applicant or licensee required to be licensed by the Board as a key employee qualifier; and any other person required to be licensed by the Board as a key employee qualifier.

* * * * *

Publicly traded—An entity that meets one or more of the following criteria:

(i) The entity has a class or series of securities registered under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78nn).

(ii) The entity is a registered management company under the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a-64).

(iii) The entity is subject to the reporting obligations imposed by section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. § 78o(d)) by reason of having filed a registration statement which has become effective under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa).

(iv) The entity has one or more classes of securities traded in any open market in any foreign jurisdiction or regulated pursuant to a statute of any foreign jurisdiction that the Board determines to be substantially similar to either or both of the statutes referred in subparagraph (iii).

* * * * *

§ 401.5. Jurisdiction.

(a) The Board will have exclusive jurisdiction over all matters within the scope of its powers under the act.

(b) Nothing contained in this part shall be construed to limit the powers and duties of the Board as provided in the act.

CHAPTER 405. BUREAU OF INVESTIGATION AND ENFORCEMENT

§ 405.3. Office of Enforcement Counsel.

(a) The Office of Enforcement Counsel has been established within the Bureau which has the following powers and duties:

* * * * *

(2) Make recommendations and objections relating to the issuance of licenses, certifications, permits and registrations.

* * * * *

(5) Appear at administrative hearings and other proceedings before the Board.

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Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING CHAPTER 421. GENERAL PROVISIONS

§ 421.1. General requirements.

* * * * *

(i) A person holding a license, permit, registration or certification issued by the Board who violates a provision of the act or this part may be held jointly or severally liable for the violation.

CHAPTER 423. APPLICATIONS

§ 423.5. Application withdrawal.

* * * * *

(e) The Board may convert an incomplete application to a request for withdrawal.

(f) Unless the Board otherwise directs, fees or other payments relating to any application will not become refundable by reason of withdrawal of the application or any portion thereof.

CHAPTER 435. EMPLOYEES

§ 435.1. General provisions.

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(r) An individual regulated by this part shall demonstrate that he is current and not in arrears on any financial obligation owed to this Commonwealth or any subdivision thereof, including court-ordered child-support payments.

§ 435.7. Employee credentials.

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(g) Any employee whose license, permit, registration or certification has been revoked by the Board shall return the Board-issued credentials to the Board following receipt of the Board's final order revoking his license, permit, registration or certification.

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441. SLOT MACHINE LICENSING

§ 441.19. Licensing hearings for slot machine licenses.

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(d) The Board will allot each applicant a specified time for its presentation. The length of the presentations,

which shall be the same for each applicant within each category, will be established at the prehearing conferences.

* * * * *

(n) Applicants are prohibited from relying upon or introducing new evidence, including witnesses' testimony, reports or exhibits, not identified under subsection (j) or (o), except in the following circumstances:

(1) Applicants may update or supplement evidence, including witnesses' testimony, reports or exhibits to respond to requests from the Board.

(2) Applicants may update or supplement evidence, including witnesses' testimony, reports or exhibits to respond to issues raised subsequent to the filing of the memorandum required by subsection (j) at a prehearing conference if the issues could not have been reasonably anticipated by the applicant.

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Subpart H. PRACTICE AND PROCEDURE CHAPTER 493. PLEADINGS

§ 493.5. (Reserved).

[Pa.B. Doc. No. 06-1310. Filed for public inspection July 21, 2006, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD [58 PA. CODE CH. 403]

Temporary Regulations; Emergency Orders

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Section 403.6, entitled emergency orders, is added to Chapter 403, entitled board operations and organization, under Subpart A, entitled general provisions.

Purpose and Background

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft regulations on the Board's website and a 5-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations shall not be subject to sections 201—205 of the act of July 31, 1968(P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Financial Impact

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from

entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities. The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board. It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

Statutory Authority

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 5-day public comment period was held prior to the adoption of the temporary regulations.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The Board, acting under the authority of Act 71, adopts as its final-form temporary regulation, the draft regulation as amended by resolution at the June 28, 2006, public meeting. The temporary regulation pertains to emergency orders.

(b) The temporary regulation of the Board, 58 Pa. Code Chapter 403, is amended by adding § 403.6 to read as set forth in Annex A.

(c) The temporary regulation is effective June 28, 2006.

(d) The temporary regulation shall be posted in its entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulation shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the regulation with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-38. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 403. BOARD OPERATIONS AND ORGANIZATION

§ 403.6. Emergency orders.

(a) Upon request of the Office of Enforcement Counsel in accordance with subsection (d), a temporary emergency order may be issued by, or on behalf of, the Executive Director of the Board. A temporary emergency order may be issued without a hearing and without notice and will notify the person to whom the temporary emergency order is issued that he may request a hearing to be held by the Executive Director within 72 hours of the request being filed with the Board.

(b) A temporary emergency order may be issued to suspend a license, certification, permit or registration or to direct that a person refrain from engaging in, or cease and desist engaging in, specific conduct.

(c) A temporary emergency order may be issued if there is insufficient time to provide notice and hearing prior to the issuance of the order; the order is necessary to preserve the public health, welfare or safety or the integrity of gaming in this Commonwealth; and determination of one of the following has occurred:

(1) A person holding a license, certification, permit or registration issued by the Board has been charged with or convicted of a felony, a criminal gaming offense, or crime of dishonesty or false statement or other disqualifying offense.

(2) A licensee has failed to pay required assessments or to satisfy its tax obligations under the act.

(3) The action is necessary to prevent or cure a violation of any provision of the act, this part or other Federal or State laws or regulations.

(d) If the Office of Enforcement Counsel determines that circumstances exist which require that immediate action be taken on behalf of the Board, it may submit a request for a temporary emergency order. The request will include:

(1) The circumstances upon which the determination to request the order was made.

(2) The grounds upon which the order is being requested.

(3) The specific relief sought in the order.

(e) A temporary emergency order will be issued in writing and filed, together with the request for a temporary emergency order required by subsection (d), with the Office of the Clerk no later than the close of the next business day following its issuance.

(f) A temporary emergency order must specify that the person subject to the temporary emergency order may request an informal hearing before the Executive Director within 72 hours of filing the request with the Office of the Clerk.

(g) The Bureau will cause the temporary emergency order and the request for a temporary emergency order required by subsection (d) to be served upon the person named in the temporary emergency order. Service required by this subsection will be made as expeditiously as practicable following the issuance of the order and the request. Service will be made in the manner prescribed by § 491.3 (relating to service by the Board).

(h) Within 72 hours of the filing a request for an informal hearing with the Board, an informal hearing before the Executive Director will be held at the Board headquarters.

(i) The Executive Director or a designee may sign subpoenas to secure the attendance of witnesses and the production of documents.

(j) The procedure for the informal hearing will be as follows:

(1) The Executive Director or a designee will call the hearing to order and present the request for a temporary emergency order filed by the Office of Enforcement Counsel under subsection (d).

(2) The person named in the temporary emergency order may respond by submitting evidence and witnesses supporting the position that the temporary emergency order should be dissolved or modified.

(3) The Executive Director or a designee may require that witnesses testify under oath. All relevant evidence is admissible. The Executive Director or a designee may question witnesses.

(4) The licensee may make a concluding argument as to why the temporary emergency order should be dissolved or modified.

(5) Upon receiving all evidence presented by the person named in the order and hearing the person's final argument, the Executive Director or a designee will render a decision as to whether or not the temporary emergency order will continue, be modified or dissolved. Unless the Executive Director dissolves the temporary emergency order, the matter will be scheduled for a hearing before the Board as provided in subsection (k).

(k) Once a temporary emergency order has been issued under this section, unless it has been subsequently dissolved by the Executive Director, the temporary emergency order will be presented to the Board at its next meeting or within 10 business days, whichever is longer at which time the Board may do one of the following:

(1) Conduct a hearing to determine the validity of the issuance of the order.

(2) Refer the matter to the Office of Hearings and Appeals under § 492.6 (relating to hearings generally) and direct that a hearing be conducted by a hearing officer and a report submitted to the Board.

(l) In all hearings relating to the disposition of a temporary emergency order, whether the hearing is conducted by the Board or by a hearing officer, the following procedure will occur:

(1) The temporary emergency order, the request for the temporary order and any modifications to the temporary order will be made a part of the evidentiary record of the proceeding.

(2) The Office of Enforcement Counsel will present evidence to the Board or the hearing officer in support of the temporary emergency order.

(3) The person named in the order shall have the burden of rebutting the evidence presented by the Office of Enforcement Counsel.

(m) If the hearing is conducted by the Board, the Board may take one of the following actions upon conclusion of oral arguments and evidentiary presentations:

(1) If the Board finds that the un rebutted facts and circumstances presented are sufficient to support the issuance of the temporary emergency order, that dissolution of the temporary emergency order would pose an immediate threat to the public health, safety or welfare, or the public's interest in the effective regulation of gaming demands the action, it may adopt a resolution ratifying or modifying the temporary emergency order.

(2) If the Board finds that there is insufficient cause to continue the temporary emergency order, it may adopt a resolution dissolving the emergency order and the privileges of the person named in the order will be reinstated.

(3) If the Board finds that further hearing is necessary, it may refer the matter to the Office of Hearings and Appeals for additional presentation of evidence and testimony of witnesses. If the matter is referred to the Office of Hearings and Appeals, the temporary emergency order will remain in effect, with or without modification as the Board deems appropriate.

(n) If the Board adopts a resolution, the resolution may establish the length of term for the order by establishing an expiration date, dependent on the completion of specified remedial actions or dependent on the filing of, or final resolution of, a complaint alleging the person violated a provision of the act or this part. If the expiration date is dependent upon specific remedial actions, the Board will provide a detailed description of the remedies in the resolution and will establish procedures whereby the person can demonstrate that it has complied with the required remedies.

(o) Any resolution adopted is a final order of the Board for purposes of appeal.

(p) Resolutions ratifying or dissolving temporary emergency orders adopted by the Board under this section will have no effect upon the power and duty of the Office of Enforcement Counsel to initiate, in its sole discretion, proceedings for violations of the act or this part or upon the outcome of any proceeding so initiated.

(q) Copies of the Board's final order will be served on the person named in the order by certified or overnight express mail, postage prepaid; or by personal delivery in accordance with § 491.3.

(r) If the Board refers the matter to the Office of Hearings and Appeals, the hearing will be subject to the following requirements:

(1) The Chairperson will designate a presiding officer to direct the hearing and rule on evidentiary matters.

(2) The hearing before the presiding officer will occur no more than 10 business days after the Board refers the matter to the Office of Hearings and Appeals, unless a delay is requested by the person named in the temporary emergency order.

(3) Within 10 days following the conclusion of the hearing, the presiding officer will forward a recommendation for action on the temporary emergency order to the Board. A copy of the recommendation will be served on the person named in the temporary order by certified or overnight express mail or by personal delivery in accordance with § 491.3.

[Pa.B. Doc. No. 06-1311. Filed for public inspection July 21, 2006, 9:00 a.m.]

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PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CHS. 403, 405, 421, 435, 491 AND
493]

Temporary Regulations

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Section 403.5, entitled delegation of powers, is added to Chapter 403, entitled Board operations and organization, under Subpart A, entitled general provisions. Section 405.6, entitled investigatory subpoena, is added to Chapter 405, entitled Bureau of Investigations and Enforcement, under Subpart A. Section 421.1, entitled general requirements, is amended to read as set forth in Annex A. Section 435.1, entitled general provisions, is amended to read as set forth in Annex A. Section 491.3, entitled service by the Board, is added to Chapter 491, entitled general rules of practice, under Subpart H, entitled practice and procedure. Section 493.2, entitled formal complaints, is amended to read as set forth in Annex A. Section 493.12, entitled discovery, is amended to read as set forth in Annex A. Section 493.14, entitled consent agreements, is added to Chapter 493, entitled pleadings, under Subpart H.

Purpose and Background

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft regulations on the Board's website and 5-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations shall not be subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Financial Impact

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or oper-

ate gaming facilities. The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board. It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

Statutory Authority

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

Findings

The Board finds that:

- (1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.
- (2) A 5-day public comment period was held prior to the adoption of the temporary regulations.
- (3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The Board, acting under the authority of Act 71, adopts as its final-form temporary regulations, the draft regulations as amended by resolution at the June 28, 2006, public meeting. The temporary regulations pertain to delegation of powers, investigatory subpoena, general licensing requirements, wagering by employees, service by the Board, formal complaints, discovery and consent agreements.

(b) The temporary regulations of the Board, 58 Pa. Code Chapters 403, 405, 421, 435, 491 and 493 amended by amending §§ 421.1, 435.1, 493.2 and 493.12 and by adding §§ 403.5, 405.6, 491.3, and 493.14 to read as set forth in Annex A.

(c) The temporary regulations are effective June 28, 2006.

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

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

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

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-39. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 403. BOARD OPERATIONS AND ORGANIZATION

§ 403.5. Delegation of powers.

(a) The Board may, consistent with the act and this part, delegate its authority to perform any of its functions to a Board member or member of the Board's staff.

(b) Any delegation of Board authority will be effected by promulgation of a regulation or the adoption of a formal resolution at a public meeting of the Board. The regulation or resolution will specify:

- (1) The specific authority delegated.
- (2) The Board member or Board staff members to whom the authority is delegated.
- (3) Any limitations or conditions imposed on the authority delegated.

(c) Delegations of authority made under this section will remain in effect indefinitely unless otherwise specified in the implementing regulation or resolution.

(d) A delegation of authority adopted by the Board may be modified or rescinded by the Board through promulgation of a regulation or the adoption of a subsequent formal resolution at a public meeting of the Board.

(e) Notwithstanding any other provision of this section, any matter that has been delegated to the Board staff may alternatively be presented to and determined by the Board on its own motion, at the discretion of the Chairperson or at the request of the Board staff.

CHAPTER 405. BUREAU OF INVESTIGATIONS AND ENFORCEMENT

§ 405.6. Investigatory subpoena.

(a) The Director of the Office of Enforcement Counsel is authorized to require the attendance and testimony of witnesses and the production of any books, accounts, papers, records, documents and files necessary for all action within the authority of the Bureau under the act or this part.

(b) The Director of the Office of Enforcement Counsel or a representative may issue subpoenas.

(c) In case of disobedience of any subpoena or the contumacy of any witness appearing before the Director of the Office of Enforcement Counsel or a representative, the Director of the Office of Enforcement Counsel or the representative may invoke the aid of the Commonwealth Court or any court of record of this Commonwealth to require the person subpoenaed to obey the subpoena or to give evidence or to produce books, accounts, papers, records, documents and files relative to the matter in question.

(d) The issuance of a subpoena under this section will not be required to secure the cooperation of a person who

is an applicant for, or the holder of, a license, permit, certification or registration issued by the Board, or to secure the voluntary cooperation of any person.

Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

CHAPTER 421. GENERAL PROVISIONS

§ 421.1. General requirements.

* * * * *

(h) An applicant shall at all times have the burden of proof. It shall be the applicant's affirmative responsibility to establish the facts supporting its suitability under the act and this subpart by clear and convincing evidence, including why a license, certificate, permit or registration should be issued or renewed by the Board.

CHAPTER 435. EMPLOYEES

§ 435.1. General provisions.

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(o) An individual who is required to hold a license or permit as a condition of employment or qualification may not wager at any licensed facility in this Commonwealth.

(p) A registrant or employee who is not subject to licensure or permitting may not wager at the licensed facility in which the registrant or employee is employed.

(q) Any licensed, permitted or registered employee shall wait at least 30 days following the date that the employee either leaves employment with a slot machine licensee or is terminated from employment with a slot machine licensee before the employee may wager at the licensed facility in which the employee was formerly employed.

Subpart H. PRACTICE AND PROCEDURE

CHAPTER 491. GENERAL RULES OF PRACTICE

§ 491.3. Service by the Board.

(a) Service by the Board may be made by any competent adult. Service will be made by certified mail or personally delivering a copy:

- (1) Directly to the person named in the notice, pleading or order.
- (2) At the residence of the person named in the notice, pleading or order, to an adult member of the family with whom the person named resides. If no adult member of the family is found, then to an adult person in charge of the residence.

(3) At the residence of the person named in the notice, pleading or order, to the clerk or manager of the hotel, inn, apartment house, boarding house or other place of lodging at which the person named resides.

(4) At any office or usual place of business of the person named in the notice, pleading or order, to his agent or to the person for the time being who is in charge thereof. For purposes of this subsection, the phrase "any office or usual place of business of the person named in the notice, pleading, or order" will include the following locations:

- (i) The licensed facility at which the person named is employed, licensed in connection therewith, or routinely performs his duties of employment.
- (ii) The office of the agent identified by the person named to receive service of process.

(b) Proof of service shall be evidenced by a return of service filed with the Office of the Clerk in the manner and form prescribed by the Board.

CHAPTER 493. PLEADINGS

§ 493.2. Formal complaints.

* * * * *

(l) Except as otherwise expressly provided in the act or this part, a person who holds a license, certification, permit or registration shall at all times have the burden of proof in complaint proceedings. It shall be the person's affirmative responsibility to establish the facts of the case by clear and convincing evidence, including:

(1) Why the person should not be subject to Board-imposed administrative sanction or other discipline.

(2) Why the person does not owe an assessment, cost, fee, fine, penalty, restitution, tax or monetary sanction.

(m) This section supplements 1 Pa. Code §§ 35.9—35.11 and 35.14 (relating to formal complaints; and orders to show cause).

§ 493.12. Discovery.

(a) Upon written request from a party in a proceeding served upon another party in the proceeding, the requesting party shall be entitled to the name and address of any witness who may be called to testify on behalf of the responding party and all documents or other material in the possession or control of the responding party which the responding party reasonably expects will be introduced into evidence. The responding party shall be under a continuing duty to update its response to this request.

(b) The presiding officer may, upon request of a party, permit the testimony of a witness or the introduction of other evidence not disclosed pursuant to a request made under subsection (a), if following proffer by the party seeking to present the evidence, the presiding officer determines that justice so requires.

(c) Upon the request of a party in a proceeding and for good cause shown, the presiding officer may allow other discovery to be conducted, but the information furnished to or obtained by the Board or the Bureau from any source, including information contained in the Bureau of Licensing Suitability Report, or information or files in the possession of the Bureau, or information in the possession or control of an agency which relates to an ongoing civil or criminal investigation, will not be discoverable under this subsection.

(d) Depositions will be conducted in accordance with 1 Pa. Code §§ 35.145—35.152 (relating to depositions).

§ 493.14. Consent agreements.

(a) Parties in a proceeding may propose consent agreements to the hearing officer or to the Board at any stage of a proceeding, including prior to the entry of a final order or prior to the initiation of proceedings.

(b) Consent agreements must be in writing, signed by all parties in the proceeding, and accurately reflect the terms of the consent agreement, including the facts agreed to by the parties constituting the grounds for the action proposed in the consent agreement.

(c) If the consent agreement is proposed in a matter that is the subject of a proceeding before a hearing officer, the proposal of the consent agreement will stay the proceeding until the consent agreement is acted upon by the Board.

(d) The consent agreement shall be presented to the Board for its approval or disapproval. If the Board approves the consent agreement, it will become the final order of the Board. If the Board disapproves the consent agreement, the parties will be notified and the consent agreement and any documents solely relating to the consent agreement will not constitute part of the record.

[Pa.B. Doc. No. 06-1312. Filed for public inspection July 21, 2006, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CHS 405, 421, 423 AND 441]
Temporary Regulations**

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Section 405.7, entitled enforcement action, is added to Chapter 405, entitled Bureau of Investigations and Enforcement, under Subpart A, entitled general provisions. Section 421.5, entitled monopolization of economic opportunities and control, is added to Chapter 421, entitled general provisions, under Subpart B, entitled licensing, registering, certifying and permitting. Section 423.6, entitled restriction on application after denial or revocation, is added to Chapter 423, entitled applications, under Subpart B. Section 441.23, entitled slot machine license agreements, is added to Chapter 441, entitled slot machine licenses, under Subpart C, entitled slot machine licensing.

Purpose and Background

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations shall not be subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Financial Impact

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities. The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this

Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board. It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

Statutory Authority

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The Board, acting under the authority of Act 71, adopts as its final-form temporary regulations the temporary regulations pertain to enforcement actions, monopolization of economic opportunities and control, restrictions on application after denial or revocation and slot machine license agreements.

(b) The temporary regulations of the Board, 58 Pa. Code Chapters 405, 421, 423 and 441 are amended by adding §§ 405.7, 421.5, 423.6 and 441.23 to read as set forth in Annex A.

(c) The temporary regulations are effective June 28, 2006.

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

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

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

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-42. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 405. BUREAU OF INVESTIGATIONS AND ENFORCEMENT

§ 405.7. Enforcement action.

(a) Upon a determination by the Office of Enforcement Counsel that sufficient facts exist to support enforcement action against a person holding a license, permit, certification or registration issued by the Board, the Office of Enforcement Counsel will serve the person with a notice of enforcement action in accordance with § 491.3 (relating to service by the Board), including a proposed order for enforcement action.

(b) The proposed order for enforcement action will include a statement of the facts supporting the proposed enforcement action, the statute, regulation or statement of conditions that the person is being charged with violating and the proposed penalty. The proposed order will be accompanied by a certificate of service demonstrating the date of service.

(c) Within 15 days from the date of service of the proposed order for enforcement action, the person may file a request for a hearing with the Clerk to the Board and serve a copy of the request on the Office of Enforcement Counsel. Failure to request a hearing within 15 days will be deemed:

(1) A waiver by the person of any right to an administrative hearing before the Board.

(2) An admission by the person of all matters and facts alleged in the proposed order for enforcement action.

(3) Consent by the person to the entry of a final order by the Board disposing of the enforcement matter.

(d) Upon the person's failure to request a hearing within the prescribed 15 days, the matters and facts deemed admitted by the person and the proposed enforcement order will be presented to the Board. The Board may, by resolution, adopt the proposed enforcement order.

(e) The Clerk to the Board will notify the person of the Board's final order by certified mail.

Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

CHAPTER 421. GENERAL PROVISIONS

§ 421.5. Monopolization of economic opportunities and control.

(a) In accordance with section 1102(5) of the act (relating to legislative intent), a slot machine license, management company license or other license may not be issued to or held by a person if the Board determines that the issuance or holding will result in the monopolization of economic opportunities and control of the licensed gaming facilities in this Commonwealth by that person.

(b) For purposes this section, monopolization of economic opportunities and control of the licensed gaming facilities means that a person:

(1) Would have actual or potential domination of the gaming market in the Commonwealth contrary to the legislative intent.

(2) Could substantially impede or suppress competition among licensees.

(3) Could adversely impact the economic stability of the gaming industry in this Commonwealth.

(c) In determining whether the issuance or holding of a license by a person will result in monopolization of economic opportunities and control of the licensed gaming facilities in the Commonwealth, the Board will consider the following criteria:

(1) The percentage share of the market presently controlled by the person in each of the following categories:

(i) Total number of slot machine licenses available under section 1307 of the act (relating to number of slot machine licenses).

(ii) Total gaming floor square footage.

(iii) Number of slot machines.

(iv) Net revenue.

(v) Slot machine win.

(vi) Slot machine drop.

(vii) Number of persons employed by the licensee.

(2) The estimated increase in the market share in the categories in paragraph (1) if the person is issued or permitted to hold the license.

(3) The relative position of other persons who hold licenses, as evidenced by the market share of each person in the categories in paragraph (1).

(4) The current and projected financial condition of the industry.

(5) Current market conditions, including level of competition, consumer demand, market concentration, any consolidation trends in the industry and other relevant characteristics of the market.

(6) Whether the gaming facilities held or to be held by the person have separate organizational structures or other independent obligations.

(7) The potential impact of licensure on the projected future growth and development of the gaming industry in this Commonwealth and the growth and development of the host communities.

(8) The barriers to entry into the gaming industry, including the licensure requirements of the act, and whether the issuance or holding of a license by the person will operate as a barrier to new companies and individuals desiring to enter the market.

(9) Whether the issuance or holding of the license by the person will adversely impact consumer interests, or whether the issuance or holding is likely to result in enhancing the quality and customer appeal of products and services offered by slot machine licensees to maintain or increase their respective market shares.

(10) Whether a restriction on the issuance or holding of an additional license by the person is necessary to encourage and preserve competition and to prevent monopolization of economic opportunities and control of the licensed gaming facilities.

(11) Other evidence deemed relevant by the Board.

CHAPTER 423. APPLICATIONS

§ 423.6. Restriction on application after denial or revocation.

(a) Any person whose application has been denied or whose license, certification, registration or permit has been revoked, may not apply for a license, certification, registration or permit for 5 years from the date that the

application was denied or the license, certification, registration or permit was revoked.

(b) After 2 years from the date that the application was denied or the license, certification, registration or permit was revoked, a person may file a petition for permission to reapply for a license, certification, registration or permit before the expiration of the 5-year period.

(c) A petition filed under subsection (b) shall be filed in accordance with § 493.4 (relating to petitions generally).

(d) Petitions filed under subsection (b) may contain:

(1) An explanation of how the conditions that were the basis for denial or revocation have been corrected or no longer exist.

(2) Supporting materials that demonstrate that the person meets the requirements for a license, certification, registration or permit.

(3) If the denial or revocation was the result of a conviction, evidence of rehabilitation, such as:

(i) The nature and seriousness of the offense or conduct.

(ii) The circumstances under which the offense or conduct occurred.

(iii) The date of the offense or conduct.

(iv) The age of the applicant when the offense or conduct was committed.

(v) Whether the offense or conduct was an isolated or repeated incident.

(vi) Social conditions which may have contributed to the offense or conduct.

(vii) Evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision.

(viii) Evidence that all obligations for restitution, fines and penalties have been met.

(e) If a petition filed under subsection (b) is denied, a person may not file another petition under subsection (b) for 1 year from the date of the denial of that petition.

(f) The 5-year restriction in subsection (a) will not apply if the denial or revocation was based on pending charges for a disqualifying offense under section 1213 or section 1518 of the act (relating to license or permit prohibition; and prohibited acts and penalties), 18 Pa.C.S. (relating to crimes and offenses) or the criminal laws of any other jurisdiction and the pending charges do not result in conviction of a disqualifying offense.

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441. SLOT MACHINE LICENSES

§ 441.23. Slot machine license agreements.

(a) An agreement or noncontractual relationship between a person and a slot machine licensee which provides for a payment to the person or any arrangement under which a person receives payment, however defined, of any direct or indirect interest, percentage or share of earnings, profits or receipts from slot machines and associated equipment of a licensed facility, shall require Board approval, regardless of the amount or percentage.

(b) An agreement will not receive Board approval if it, or if it when viewed in the aggregate as related to any of the persons who receive payment as a result of the agreement, creates a monopolization of economic opportunities or control of the licensed gaming facilities in this Commonwealth under § 421.5 (relating to monopolization of economic opportunities and control).

(c) Notwithstanding the definition of a key employee qualifier, persons who receive payments pursuant to the agreements or arrangements shall be licensed by the Board prior to receiving the payments, unless the agreement or person is exempted under subsection (d).

(d) The following are exempt from the requirements of this section:

- (1) Fixed sum and hourly payments.
- (2) Junket agreements.
- (3) Employee profit sharing agreements administered by class or category.
- (4) Management agreements.
- (5) Slot system agreements for wide area progressive slot systems.
- (6) Horsemen's organizations.
- (7) Labor organizations.
- (8) Other agreements determined by the Board.

[Pa.B. Doc. No. 06-1313. Filed for public inspection July 21, 2006, 9:00 a.m.]

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PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CH. 431]
Temporary Regulations; Supplier Licenses

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapter 431, entitled supplier licenses, is added to Subpart B, entitled Licensing, Registering, Certifying and Permitting.

Purpose and Background

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To promulgate the temporary regulations in accordance with customary rulemaking procedure, the Board published draft regulations at 35 Pa.B. 2569 (April 23, 2005). A 30-day public comment period was provided.

Under 4 Pa.C.S. § 1203, the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations shall not be subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Financial Impact

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities. The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board. It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

Statutory Authority

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

Findings

The Board finds that:

- (1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.
- (2) A 30-day public comment period was held prior to the adoption of the temporary regulations.
- (3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The Board, acting under the authority of Act 71, adopts as its final-form temporary regulations, the draft regulations as adopted by resolution at the June 28, 2006, public meeting. The temporary regulations pertain to supplier licenses.

(b) The temporary regulations of the Board, 58 Pa. Code, are amended by adding §§ 431.1—431.4 to read as set forth in Annex A.

(c) The temporary regulations are effective June 28, 2006.

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

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

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

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-43. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

CHAPTER 431. SUPPLIER LICENSES

Sec.

- 431.1. Supplier license requirements.
431.2. Supplier licensing standards and application.
431.3. Supplier requirements and prohibitions.
431.4. Supplier log books.

§ 431.1. Supplier license requirements.

(a) In determining whether an applicant will be licensed as a supplier under this section, the Board will consider whether the applicant satisfies the criteria in this section and whether the applicant is seeking to sell, lease, offer or otherwise provide, distribute or service slot machines or associated equipment at a licensed gaming facility which meet one or more of the following criteria:

- (1) Are specifically designed for use in the operation of a slot machine.
- (2) Are needed to conduct an authorized game.
- (3) Have the capacity to affect the outcome of the play of a game.
- (4) Have the capacity to affect the calculation, storage, collection or control of gross terminal revenue.

(b) An applicant for or holder of a supplier license shall have a continuing duty to promptly:

(1) Notify the Board of a material change in the information, materials and documents submitted in the license application or renewal application submitted by the applicant or licensee or a change in circumstances that may render the applicant or licensee ineligible, unqualified or unsuitable to hold the license under the licensing standards and requirements of the act.

(2) Provide information requested in writing by the Board relating to licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with all conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(c) In accordance with section 1317 of the act (relating to supplier and manufacturer licenses application), neither an applicant for or the holder of a manufacturer license or slot machine license nor any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, is eligible to apply for or hold a supplier license.

(d) Computerized casino management systems, player tracking systems, including slot machine interface boards, card readers and displays, wide-area progressive systems and slot monitoring systems, including gaming voucher systems, bonusing systems and electronic transfer promotional credit systems are not required to be provided through a licensed supplier. Manufacturers or suppliers providing these systems to slot machine licensees may

only employ individuals with occupation permits issued under § 435.4 (relating to occupation permits) to service and repair such excluded systems.

§ 431.2. Supplier licensing standards and application.

(a) The standards and requirements for qualification for a supplier license are set forth in this section and in section 1317 of the act (relating to supplier and manufacturer licenses application). An applicant shall submit:

(1) A nonrefundable application processing fee.

(2) An original and three copies of the Supplier Application and Disclosure Information Form for the applicant and each of the applicant's affiliated entities.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481 (relating to general provisions) which shall be signed by the chief executive officer of the applicant.

(4) An application from every key employee and each natural person who is a key employee qualifier as specified by the Supplier Application and Disclosure Information Form or as determined by the Board, which must consist of the following:

(i) An original and three copies of the Multi Jurisdictional Personal History Disclosure Information Form and Pennsylvania Supplement with a nonrefundable deposit to be set by the Board and provided in a fee schedule for each key employee and key employee qualifier.

(ii) The applicant may be subject to additional fees based on the actual expenses incurred by the Board in conducting the background investigation.

(5) If applicable, copies of all filings required by the United States Securities and Exchange Commission during the 2 immediately preceding fiscal years, including all annual reports filed under section 13 or section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a and 78o(d)), quarterly reports filed under section 13 or section 15(d) of the Securities Exchange Act of 1934, current reports filed under section 13 or section 15(d) of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.

(6) Properly executed forms for consents to inspections, searches and seizures; waivers of liability for disclosures of information; and consents to examination of accounts and records in forms as prescribed by the Board.

(7) An affirmation that neither it nor any of its affiliates, subsidiaries, intermediaries and holding companies holds any direct or indirect ownership interest in any applicant for or holder of a manufacturer license or slot machine licensee, or employs, directly or indirectly, any person who satisfies the definition of a key employee qualifier or key employee of a manufacturer or slot machine applicant or licensee. In applying this provision to an applicant for a supplier license, the Board will not include interests that are held by individuals in any of the following manners:

(i) In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the manufacturer or slot machine applicant or licensee and provided that the mutual fund is not a nondiversified fund invested primarily in entities operating in, or connected with, the gaming industry.

(ii) Through defined benefit pension plans.

(iii) Through deferred compensation plans organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).

(iv) In blind trusts over which the holder may not exercise any managerial control or receive income during the time period the holder is subject to these provisions.

(v) Through tuition account plans organized and operated under section 529 of the Internal Revenue Code (26 U.S.C.A. § 529).

(vi) Through plans described in section 401(k) of the Internal Revenue Code (26 U.S.C.A. § 401(k)).

(vii) An interest held by a spouse if an action seeking a divorce and dissolution of marital status has been initiated in any jurisdiction by either party to the marriage.

(8) A statement as to whether the supplier is a certified minority- or women-owned and controlled and the supplier's enterprise certification number, if any, as required by § 481.3 (relating to diversity participation).

(9) Other information or documentation as may be requested in writing by the Board.

(b) Each application for a supplier license must include the production of copies of financial books, records, information, documentation and assurances to satisfy the Board of the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) That all key employee qualifiers individually qualify under the standards of section 1317 of the act.

(3) The integrity of all financial backers.

(4) The suitability of the applicant and all key employee qualifiers of the applicant based on the satisfactory results of:

(i) A background investigation of all owners, officers, members of the board of directors and key employees or their equivalent in other jurisdictions.

(ii) A current tax clearance and lien review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

(c) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence).

§ 431.3. Supplier requirements and prohibitions.

(a) Supplier licensees shall be the sole and exclusive authorized sources of slot machines or associated equipment, as provided in section 1317 of the act (relating to supplier and manufacturer licenses application), that are sold, leased, offered, installed or otherwise provided for use or play, distributed, serviced or repaired at licensed facilities.

(b) Nothing in this section prohibits a licensed gaming entity from servicing or repairing slot machines or associated equipment at its licensed facility pursuant to a written agreement between the licensed gaming entity and the supplier licensee that provided the slot machines or associated equipment for use or play at the licensed facility.

(c) Nothing in this section prohibits a licensed gaming entity from performing routine maintenance directly related to the availability of slot machines for play, customer service or a clean and gracious playing environment. The routine maintenance must include installation

or replacement of the following: batteries, hardware, including hinges, screws, bolts and custom handles, light bulbs, locks on slot machines and slot cash storage boxes, including the rekeying of the locks, printers, exclusive of printer software and paper stock. Routine maintenance also includes external cleaning and the clearing of paper, bill and coin jams which do not require removal or dismantling of the mechanisms.

(d) Nothing in this section prohibits a licensed manufacturer from installing, servicing or repairing slot machines or associated equipment at a designated licensed facility pursuant to a written agreement between the manufacturer licensee and the supplier licensee that provided the slot machines or associated equipment for use or play at the designated licensed facility.

(e) Every supplier licensee shall be subject to the following requirements:

(1) Within 1 year of the Board's issuance of the supplier license, a supplier shall establish and maintain a principal place of business in this Commonwealth.

(2) Under section 1306 of the act (relating to order of initial license issuance), the Board will license a sufficient number of suppliers to adequately meet the installation, service and repair needs of the licensed facilities.

(3) Nothing in this part requires that a manufacturer and a supplier enter into either an exclusive or nonexclusive contractual agreement.

(4) A supplier may only employ permitted technicians that have been trained and issued a certification according to procedures or policies established by licensed manufacturers whose equipment that supplier will service, install or repair.

(5) A supplier shall maintain at all times equipment and a physical facility in this Commonwealth approved by the Board adequate to house necessary inventory of replacement parts and supplies for slot machine operation and support, equipment necessary for transporting and delivering inventory, and equipment for the servicing, repairing and installing of all slot machines and associated equipment.

(6) At the time of licensure, a supplier shall have assets or available lines of credit to support the sale, financing, servicing and repair of all slot machines to be placed in service by the supplier. The assets and available lines of credit shall be from a source independent of slot machine manufacturers and licensed gaming entities. Notwithstanding the forgoing, a licensed manufacturer may extend financing or payment terms to a licensed supplier, at prevailing market rates and terms, for the acquisition or leasing of slot machines, to be secured by the slot machines sold, leased or transferred.

(7) A supplier shall submit to the Board for review any agreements with a licensed manufacturer or with a licensed gaming entity and detailed business plans. The Board's review may include, but not be limited to, financing arrangements, inventory requirements, warehouse requirements, warehouse space, technical competency, compensative agreements and other terms or conditions to ensure the financial independence of the licensed supplier from any licensed manufacturer or licensed gaming entity.

(8) Nothing in this chapter shall be construed as creating a franchise for the purposes of any franchise statutes, rules or regulations.

§ 431.4. Supplier log books.

(a) A supplier licensee shall maintain a log book to register all individuals who enter the licensee's principal place of business and each physical facility utilized by the licensee to house inventory, replacement parts, supplies, transportation or delivery equipment.

(b) The supplier licensee shall record or cause to be recorded in the log book the following:

(1) The date, entrance time and departure time of each individual.

(2) The name of each individual entering the place of business or physical facility and who they represent.

(3) The signature of each individual.

(4) The purpose for the visit.

(5) If applicable, the individual's Board license number.

(c) Licensed, permitted or registered employees of a supplier are not required to register in the log book.

(d) Each log book required by this section shall be maintained at the entrance of the location to which it pertains and shall be made readily accessible for examination and inspection upon the demand of any agent, employee or representative of the Board, the Department of Revenue or the Pennsylvania State Police.

[Pa.B. Doc. No. 06-1314. Filed for public inspection July 21, 2006, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD [58 PA. CODE CH. 438] Temporary Regulations; Labor Organizations

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapter 438, entitled Labor Organizations, is added to Subpart B, entitled Licensing, Registering, Certifying and Permitting.

Purpose and Background

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft regulations on the Board's website and a 5-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations shall not be subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Financial Impact

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities. The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board. It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

Statutory Authority

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 5-day public comment period was held prior to the adoption of the temporary regulations.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The Board, acting under the authority of Act 71, adopts as its final-form temporary regulations, the draft regulations as amended by resolution at the June 28, 2006, public meeting. The temporary regulations pertain to labor organizations.

(b) The temporary regulations of the Board, 58 Pa. Code, are amended by adding §§ 438.1—438.4 to read as set forth in Annex A.

(c) The temporary regulations are effective June 28, 2006.

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

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

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

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-40. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

CHAPTER 438. LABOR ORGANIZATIONS

- 438.1. Definitions.
438.2. Labor organization notification.
438.3. Permitting of labor organization officers, agents and principal employees.
438.4. Enforcement.

§ 438.1. Definitions.

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

Labor organization—Any organization, union, agency, employee representation committee, group, association, or plan in which employees participate which exists for the purpose, in whole or in part, of dealing with a licensed gaming facility concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, including any conference, general committee, joint or systems board or international labor organization.

Labor organization agent—A person, compensated or not, who is authorized to represent a labor organization in any employment matter relating to employees who are employed by a licensed gaming entity, or who undertakes on behalf of the labor organization to promote, facilitate or otherwise influence the relations between the labor organization and a licensed gaming entity.

Labor organization officer—An officer or person authorized to perform the functions of president, vice president, secretary/treasurer or other executive function of a labor organization, and a member of its executive board or similar governing body who exercises any authority, discretion or influence with regard to any matter relating to employees who are employed in a licensed gaming facility.

Labor organization principal employee—An employee of a labor organization who serves in a management, supervisory or policy making position, which exercises authority, discretion or influence with regard to any matter relating to employees who are employed in a licensed gaming facility.

§ 438.2. Labor organization notification.

(a) Each labor organization shall file a completed Labor Organization Notification Form in a format prescribed by the Board.

(b) Labor organizations shall file an updated version of the Labor Organization Notification Form within 30 days of any change in the information contained on the form.

§ 438.3. Permitting of labor organization officers, agents and principal employees.

(a) Every labor organization officer, agent and principal employee shall be permitted in accordance with this section.

(b) Every labor organization officer, agent and principal employee shall file a completed Union Permit Application Form with the licensing fee established by the Board.

(c) Applicants and permittees under this section shall be subject to the general application and licensing requirements of Chapters 421 and 423 (relating to general provisions and applications).

(d) Permits issued under this section will be valid for 1 year from the date on which the permit is approved by the Board. Renewals will be valid for 1 year and shall be filed no later than 60 days prior to the expiration of the current permit. A permit for which a completed renewal application and fee has been received by the Board will continue in effect unless the Board sends written notification to the permittee that the Board has denied renewal of the permit.

§ 438.4. Enforcement.

The Office of Enforcement Counsel may initiate proceedings against any labor organization, or labor organization officer, agent or principal employee for violations of any provisions of this chapter.

[Pa.B. Doc. No. 06-1315. Filed for public inspection July 21, 2006, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD [58 PA. CODE CH. 441]

Temporary Regulations; Employee Status Report and Notice of Employee Misconduct and Offenses

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Sections 441.21 and 441.22, entitled employee status report and notice of employee misconduct and offenses, are added to Chapter 441, entitled slot machine licenses, under Subpart C, entitled slot machine licensing.

Purpose and Background

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft regulations on the Board's website and 5-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations shall not be subject to sections 201–205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201–1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1–745.15).

Financial Impact

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities. The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board. It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

Statutory Authority

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 5-day public comment period was held prior to the adoption of the temporary regulations.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The Board, acting under the authority of Act 71, adopts as its final-form temporary regulations, the draft regulations as amended by resolution at the June 28, 2006, public meeting. The temporary regulations pertain to employee status report and notice of employee misconduct and offenses.

(b) The temporary regulations of the Board, 58 Pa. Code Chapter 441, are amended by adding §§ 441.21 and 441.22 to read as set forth in Annex A.

(c) The temporary regulations are effective June 28, 2006.

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

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

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

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-41. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441. SLOT MACHINE LICENSES

§ 441.21. Employee status report.

(a) Each slot machine licensee shall maintain a complete, accurate and current record of each employee that includes the information in subsection (b)(1)—(4).

(b) Each month each slot machine licensee shall generate a monthly employee status report for all slot machine licensee employees. The report shall be submitted to the Board's Bureau of Licensing no later than the 15th calendar day of the following month. The report must include the following information:

(1) An alphabetical listing of the individuals currently employed by the slot machine licensee and the following information with respect to each employee listed:

(i) The name of the employee.

(ii) The address of record of the employee on file with the slot machine licensee.

(iii) The employee's license, permit or registration number.

(iv) The employee's title or position.

(v) Whether the employee is full-time or part-time.

(vi) The date of hire of the employee.

(vii) The access code, if any, assigned to the employee, which designates the restricted areas that the employee is permitted to enter and remain in for the purposes of performing his normal duties.

(2) The total number of persons employed by the slot machine applicant or licensee during the preceding month.

(3) An alphabetical listing of all employees who have discontinued or terminated employment with the slot machine licensee during the preceding month and the following information with respect to each employee listed:

(i) The information listed in paragraph (1)(i)—(vii).

(ii) The date on which the employee discontinued or terminated employment with the slot machine licensee.

(iii) The employee's address of record.

(4) The total number of employees who have discontinued or terminated employment with the slot machine licensee during the preceding month.

(5) The date on which the information provided in the report was compiled.

(c) The reports shall be signed by the slot machine licensee and transmitted to the Board's Bureau of Licensing by means of electronic data transmission or in a form prescribed by the Board.

(d) The Board may, at its discretion, request interim employee status reports from a slot machine licensee.

§ 441.22. Notice of employee misconduct and offenses.

(a) A slot machine licensee is under a continuing obligation to notify the Board within 5 days of the termination of any employee, of any information surrounding the termination of the employee that could be cause for suspension or revocation of the employee's license, permit or registration or any enforcement action related thereto.

(b) The notice must include the following information:

- (1) The employee's name.
- (2) The address of record of each employee on file with the slot machine licensee.
- (3) The employee's license, permit or registration number.
- (4) The employee's title or position.
- (5) A summary of the incident or misconduct by the employee, including any violations of this part or the act.
- (6) The date of termination of the employee.
- (7) The access code, if any, assigned to the employee, which designates the restricted areas that the employee is permitted to enter and remain in for the purposes of performing his normal duties.

(c) Notwithstanding subsection (a), a slot machine licensee is under a continuing obligation to immediately notify the Board upon learning of the charging, indictment or conviction of any of its affiliates, intermediaries, subsidiaries, holding companies, key employee qualifiers, key employees, permittees or registrants, for any of the following:

- (1) An offense or violation under the act or this part.
- (2) The willful and knowing violation or attempt to violate an order of the Board by an employee.
- (3) An offense or violation of another applicable law which would otherwise disqualify the person from holding the license, permit or registration.
- (4) An offense or violation of any criminal law or ordinance of the United States or the Commonwealth or a comparable offense or violation in other states or foreign jurisdictions.

[Pa.B. Doc. No. 06-1316. Filed for public inspection July 21, 2006, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CH. 461, 465 AND 467]
Temporary Regulations; Slot Machines

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Section 461.7 of Chapter 461, entitled slot machine testing and certification requirements, is amended to read as set forth in Annex A. Sections 461.4, 461.7, 461.18a and 461.22 are added to Chapter 461. Sections 465.1, 465.10, 465.12,

465.13 and 465.15 of Chapter 465, entitled accounting and internal controls, are amended to read as set forth in Annex A. Sections 465.21—465.31 are added to Chapter 465. Chapter 467, entitled commencement of slot operations, is added to Subpart E, entitled Slot machine testing, certification and control.

Purpose and Background

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations shall not be subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Financial Impact

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities. The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board. It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

Statutory Authority

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The Board, acting under the authority of Act 71, adopts as its final-form temporary regulations, the proposed regulations by resolution at the June 28, 2006, public meeting. The temporary regulations pertain to slot machine testing and certification requirements, accounting and internal controls and commencement of slot operations.

(b) The temporary regulations of the Board, 58 Pa. Code, are amended by amending §§ 461.4, 461.7, 465.1, 465.10, 465.12, 465.13 and 465.15 and by adding §§ 461.22, 461.23, 465.21—465.31, 467.1 and 467.2 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(c) The temporary regulations are effective June 28, 2006.

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

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

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

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-36. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart E. SLOT MACHINE TESTING, APPROVAL AND CONTROL

CHAPTER 461. SLOT MACHINES AND ASSOCIATED EQUIPMENT

§ 461.4. Submission for testing and approval.

* * * * *

(k) A slot machine licensee is prohibited from installing in its licensed facility any slot machine or associated equipment, or modification thereto, required to be tested and approved under subsection (b) unless the equipment, device or software has been approved by the Board. A slot machine licensee may not modify, alter or tamper with any approved slot machine or associated equipment. Any slot machine or associated equipment installed in a licensed facility in contravention of this requirement will be subject to seizure by the Board.

(m) A slot machine licensee shall immediately notify the Board, in a manner and form the Board prescribes, of any known or suspected defect or malfunction in any slot machine or associated equipment installed in its licensed facility. The slot machine licensee shall comply with any instructions issued by the Board with regard to the continued operation of the slot machine or associated equipment.

(n) If a dispute arises with a patron concerning payment of alleged winnings, the slot machine licensee shall notify the patron in writing, concurrent with its initial

receipt of notice of the dispute, that the patron has the right to contact the Board with regard to the dispute.

(o) When a slot machine licensee refuses to pay winnings claimed by a patron and the patron and the slot machine licensee remain unable to resolve the dispute after 7 days, the slot machine licensee shall, on the next day, notify the Board in writing of the dispute in a manner and form the Board prescribes. The notice must identify all parties to the dispute and state all known relevant facts regarding the dispute.

(p) Concurrent with the initial receipt of slot machines, an applicant for, or holder of, a slot machine license shall file a slot machine master list as required by § 463.5 (relating to slot machine master list).

(q) The testing of equipment, devices or software under this subpart may require the dismantling of the product and testing that may result in damage to, or destruction of, one or more systems or components. Once submitted for testing, equipment, devices or software will not be returned to the manufacturer unless otherwise determined by the Board.

§ 461.7. Slot machine minimum design standards.

* * * * *

(v) Each slot machine must be equipped with a lock controlling access to the card cage door securing its microprocessor, the key to which must be different from any other key securing access to the slot machine's components including its belly door or main door, bill validator or slot cash storage box. Access to the key securing the microprocessor shall be limited to a supervisor in the slot operations department, which department shall establish a sign out and sign in procedure with regard to this key.

(w) Each slot machine must be equipped with a mechanism for detecting and communicating to a slot monitoring system any activity with regard to access to the card cage door securing its microprocessor.

(x) The Board may waive one or more of the slot machine minimum design standards in this section or technical standards adopted by the Board applicable to slot machine design, upon a determination that a slot machine prototype or modification as configured nonetheless meets the operational integrity standards of the act, this subpart and technical standards adopted by the Board.

§ 461.22. Automated jackpot payout machines.

(a) An automated jackpot payout machine is the collective hardware, software, communications technology and other ancillary equipment used to facilitate the payment of a jackpot that is not totally and automatically paid directly from a slot machine.

(b) An automated jackpot payout machine must comply with the act, this subpart and technical standards on automated jackpot payout machines adopted by the Board.

(c) A slot machine licensee is prohibited from utilizing an automated jackpot payout machine which has not been tested and approved by the Board under § 461.4 (relating to submission for testing and approval).

(d) Prior to commencing use of an automated jackpot payout machine, each slot machine licensee shall establish a comprehensive system of internal controls addressing the payment of jackpot payouts utilizing an automated jackpot payout machine and the distribution of currency or coin, or both, to the machines. The internal

controls shall be submitted to, and approved by the Board under § 465.3 (relating to internal control systems and audit protocols.

(e) The Board may waive one or more of the requirements of this section or a technical standards applicable to automated jackpot payout machines adopted by the Board upon a determination that the automated jackpot payout machine as configured nonetheless meets the operational integrity requirements of the act, this subpart and any technical standards adopted by the Board.

§ 461.23. Slot machines and associated equipment utilizing alterable storage media.

(a) *Definition.* The following term, when used in this section, has the following meaning, unless the context clearly indicates otherwise:

Alterable storage media—Memory or other storage medium, such as an EEPROM, flash, optical or magnetic storage device, which is contained in a slot machine or associated equipment subject to approval under § 461.4 (relating to submission for testing and approval), that allows the modification of programs or data on the storage media during the normal operation of the slot machine or associated equipment. The term does not include:

(1) Memory or other storage medium typically considered to be alterable but through either software or hardware means approved by the Board have been rendered unalterable and remain verifiable by the central control computer system.

(2) Associated equipment using alterable storage media that the Board determines are incapable of influencing the integrity or outcome of game play.

(b) *Use of alterable storage media.* Any use of alterable storage media in a slot machine or associated equipment must be in compliance with the act, this subpart and technical standards on alterable storage media adopted by the Board.

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:

* * * * *

Signature—The written name of an employee of a slot machine licensee signifying that the employee has prepared forms, records and documents or authorized, observed or participated in a transaction to a sufficient extent to attest to the accuracy of the information recorded thereon, in conformity with this subpart and the slot machine licensee's system of internal controls and which is in either of the following formats:

(i) The employee's first initial, last name and Board license number, written by the employee, immediately adjacent to or above the clearly printed or preprinted title of the employee.

(ii) The employee's identification number or other computer identification code issued to the employee by the slot machine licensee, if the document to be signed is authorized by the Board to be generated by a slot computer system and the method of signature is approved or required by the Board.

§ 465.10. Surveillance system; surveillance department control; surveillance department restrictions.

* * * * *

(l) In accordance with § 465.3(a)(5), each slot machine licensee shall be required to submit, for Board approval, a minimum staffing submission with regard to its surveillance monitor rooms. The minimum staffing submission must consider the size and layout of the licensed facility as well as the number of slot machines and must at all times provide for adequate and effective surveillance of activities inside and outside the licensed facility. A slot machine licensee may not implement a change or amendment in its surveillance monitor room minimum staffing submission without Board approval of the change or amendment.

* * * * *

§ 465.12. Slot machine licensee's organization.

* * * * *

(b) In addition to satisfying the requirements of subsection (a), each slot machine licensee's system of internal controls must include, at a minimum, the following departments and supervisory positions, each of which must be categorized as mandatory and cooperate with, yet perform independently of, all other mandatory departments and supervisory positions of the slot machine licensee. Notwithstanding the foregoing, a department or supervisor of a slot machine licensee that required or authorized by this section may operate under or in conjunction with a mandatory department or supervisor provided the organizational structure is not inconsistent with the standards contained within the act and subsection (a). Mandatory departments and supervisory positions are as follows:

(1) A surveillance department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of surveillance. The director of surveillance shall be subject to the reporting requirements specified in subsection (c) and shall be licensed as a key employee. The surveillance department shall be responsible for the following:

* * * * *

(viii) Providing immediate notice to appropriate supervisors, the Bureau and the Pennsylvania State Police upon detecting, and also upon commencing video recording of, any person who is engaging in or attempting to engage in, or who is reasonably suspected of cheating, theft, embezzlement, a violation of this part or other illegal activities, including any person who is required to be excluded or ejected from the licensed facility under section 1514 of the act, who may be excluded or ejected from the licensed facility under section 1515 of the act or is self excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act.

* * * * *

(5) A security department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of security. The security department must be licensed as a key employee and be responsible for the overall security of the licensed facility including the following:

* * * * *

(ix) Providing immediate notice to the Pennsylvania State Police upon detecting the presence in the licensed

facility of a person possessing a firearm or handgun in violation of § 465.14 (relating to firearms; possession within a licensed facility).

(x) Providing immediate notice to appropriate supervisors, the Bureau and the Pennsylvania State Police upon detecting any person who is engaging in or attempting to engage in, or who is reasonably suspected of cheating, theft, embezzlement, a violation of this part or other illegal activities, including any person who is required to be excluded or ejected from the licensed facility under section 1514 of the act, who may be excluded or ejected from the licensed facility under section 1515 of the act or is self excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act.

* * * * *

§ 465.13. Access badges and temporary access badges.

(a) For the purposes of this section, an access badge is any form of identification issued by a slot machine licensee and worn by a slot machine licensee employee, for purposes of identifying the areas of the licensed facility where the employee may obtain access in the course of the performance of his normal duties.

(b) Each slot machine licensee shall establish procedures, in writing, for readily and effectively identifying each person permitted, during the normal course of performing his duties, to have access to one or more restricted areas within the licensed facility.

(1) The procedures must include the requirement that persons wear, in a visible location, an access badge.

(2) The procedures must also include a methodology for updating the access badge procedures to reflect changes and amendments in the slot machine licensee's table of organization and the positions approved with respect thereto.

(3) The procedures must further include provisions expressly addressing access by employees of licensed manufacturers, licensed suppliers and registered and certified vendors.

(c) Each slot machine licensee shall also establish procedures, in writing, for readily and effectively identifying each person permitted, under temporary or emergency circumstances, to have access to one or more restricted areas within the licensed facility.

(1) The procedures must include the requirement that those persons wear, in a visible location, a temporary access badge.

(2) The procedures must also include a methodology for updating the temporary access badge procedures to reflect changes and amendments in the slot machine licensee's table of organization and the positions approved with respect thereto.

(3) The procedures must further include provisions expressly addressing temporary or emergency access by licensed manufacturers, licensed suppliers and registered and certified vendors.

(d) The procedures required in subsection (b) are to be designed, implemented and enforced by the security department in collaboration with the human resources department or its functional equivalent. The procedures in subsection (c) are to be designed, implemented and enforced by the security department. Procedures addressing both access badges and temporary access badges shall be retained in the security department and be made

immediately available to the Board and the Pennsylvania State Police upon request. The slot machine licensee shall cooperate with the Board in making amendments to its procedures to improve the effectiveness of its access badge and temporary access badge systems.

§ 465.15. Security department minimum staffing.

In accordance with § 465.3(d)(5) (relating to internal control systems and audit protocols), each slot machine licensee shall be required to submit, for Board approval, a minimum staffing submission with regard to its security department. The minimum staffing submission must consider the size and layout of the licensed facility as well as the number and configuration of slot machines on the gaming floor and must at all times provide for adequate and effective security of the gaming floor and any restricted areas servicing the gaming operation. A slot machine licensee may not implement a change or amendment in its security department minimum staffing submission without Board approval of the change or amendment.

§ 465.21. Personal check cashing.

(a) Personal checks accepted by a slot machine licensee under § 501.8 (relating to prohibition on check cashing) to enable a person to take part in gaming must be:

(1) Drawn on a commercial bank, savings bank, saving and loan association, or credit union and payable on demand.

(2) Drawn for a specific amount.

(3) Made payable to the slot machine licensee.

(4) Currently dated, but not post dated.

(b) Personal checks accepted under subsection (a) shall be presented by the patron directly to a slot cashier who shall:

(1) Restrictively endorse the check "for deposit only" to the bank account designated by the slot machine licensee.

(2) Initial the check.

(3) Date and time stamp the check.

(4) Verify that the signature of the patron on the personal check and the patron's physical appearance agree with information recorded in a patron signature file created and maintained by the slot machine licensee in accordance with subsection (c) or with the signature and photograph or physical description contained on a government-issued identification credential presented by the patron. The slot machine licensee shall retain adequate documentation evidencing the signature verification performed in connection with the acceptance of each personal check.

(5) For personal checks equaling or exceeding \$500, verify the validity of the check directly with the commercial bank, savings bank, saving and loan association or credit union upon which it is drawn or with a check verification service registered or certified as a vendor with the Board. The slot machine licensee shall retain adequate documentation evidencing the check verification performed in connection with the acceptance of each personal check.

(6) Immediately exchange the personal check for cash in an amount equal to the amount for which the check is drawn, not to exceed \$2,500 per patron per gaming day.

(c) To record a patron's signature in a patron signature file, a slot cashier shall require the person for whom the file is to be created to present for examination the following:

(1) If the identity of the patron is to be confirmed in accordance with subsection (d)(1), one identification credential.

(2) If the identity of the patron is to be confirmed in accordance with subsection (d)(2), two identification credentials, at least one of which must contain a photograph or general physical description of the patron.

(d) Before a slot machine licensee may use a signature recorded in a patron signature file to verify the identity of a patron or the validity of a signature on a document, the slot machine licensee shall confirm the identity of the patron by either:

(1) Comparing the signature on the identification credential presented by the patron under subsection (c)(1) with the signature obtained from the patron and verifying the address of the patron's residence with a credit bureau, commercial bank or, if neither of these sources has the person's address on file or will not provide the information, with an alternative source, which does not include any documentation presented by the patron at the cashiers' cage.

(2) Comparing the signature on each of the identification credentials presented by the patron under subsection (c)(2) with the signature obtained from the patron and comparing the photograph or general physical description contained on at least one of the identification credentials with the patron's actual physical appearance.

(e) Any patron signature file established and maintained by a slot machine licensee under subsection (c) must include, in addition to the patron's signature, the following:

- (1) The patron's name.
- (2) The address of the patron's residence.
- (3) The type of each identification credential examined under subsection (d) and an indication whether the identification credential contained a photograph or physical description of the person.
- (4) For the purposes of this section, a physical description of the patron which includes:
 - (i) Date of birth.
 - (ii) Approximate height.
 - (iii) Approximate weight.
 - (iv) Hair color.
 - (v) Eye color.
- (5) The date and time that the patron signature file was established.
- (6) The procedure by which the identity of the person was confirmed under subsection (d), including:
 - (i) The source of confirmation, date and time if confirmed under subsection (d)(1).
 - (ii) The date and time of confirmation if confirmed under subsection (d)(2).
- (7) The signature of the slot cashier or cashiers' cage supervisor who examined the identification credentials of the patron and established the patron signature file, which signature evidences that:
 - (i) The signature of the patron recorded in the patron signature file is consistent with the signature on each identification credential that was examined.
 - (ii) The physical description recorded in the patron signature file is consistent with both the actual appear-

ance of the person and any photograph or physical description that may be contained on an identification credential that was examined.

(f) Prior to accepting personal checks, each slot machine licensee shall establish a comprehensive system of internal controls applicable to the acceptance of personal checks. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols). The internal controls submitted by the slot machine licensee must address procedures for complying with this section including the dollar limitation per gaming day contained in subsection (b)(6).

§ 465.22. Wire transfers.

(a) A wire transfer accepted by a slot machine licensee on behalf of a patron under § 501.8 (relating to prohibition on check cashing) to enable a patron to take part in gaming shall be recorded in the slot machine licensee's cashiers' cage accountability no later than the next gaming day.

(b) Prior to commencing acceptance of wire transfers for gaming purposes, each slot machine licensee shall establish a comprehensive system of internal controls addressing the acceptance, verification, accounting for and sending of wire transfers. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

(c) The internal control procedures developed and implemented by the slot machine licensee under subsection (b) must include:

- (1) A cashiers' cage log to record the following information with regard to wire transfers accepted:
 - (i) A sequential number assigned by the slot machine licensee to the wire transfer transaction.
 - (ii) The date and time of notification.
 - (iii) The name of the financial institution and account number to which the funds were transferred.
 - (iv) The amount of funds transferred.
 - (v) The name of the patron for whose benefit the funds were transferred.
 - (vi) The name and address of the financial institution from which the funds were transferred and the account number from which the funds were debited.
 - (vii) The method by which the slot machine licensee was notified of the receipt of the wire transfer and, if noticed by telephone, the name and title of the person providing notice.
 - (viii) The signature of the cashiers' cage employee receiving and recording the information required by this subsection.
 - (ix) When applicable, a notation that the wire transfer has been reversed under subsection (d).

(2) A requirement that a cashiers' cage supervisor other than the cashiers' cage employee who initially documented receipt of the wire transfer verify receipt of the wire transfer.

(3) A requirement that the cashiers' cage supervisor verifying receipt of the wire transfer document the verification process performed in the log required under subparagraph (1) including:

(i) The method by which the receipt of the wire transfer was verified and, if verified by telephone, the name and title of the person providing the verification.

(ii) The date and time of verification.

(iii) The signature of the cashiers' cage supervisor verifying receipt of the wire transfer.

(4) The procedures pursuant to which the identity of the patron is established, verified and documented, the wire transfer proceeds made available to the patron at the cashiers' cage and the cashiers' cage accountability adjusted.

(5) A cashiers' cage log to record the following information with regard to wire transfers sent on behalf of a patron:

(i) The name of the patron.

(ii) The date of the transaction.

(iii) The amount of funds transferred.

(iv) The source of funds transferred (cash, cash equivalent, jackpot payout).

(v) The name and address of the financial institution to which the funds will be transferred and the account number to which the funds will be credited.

(vi) The signature of the patron if the request to send a wire transfer is made in person at the cashiers' cage.

(vii) Documentation supporting the receipt of a request by the slot machine licensee to send a wire transfer on behalf of a patron if the request was not made in person at the cashiers' cage.

(viii) The signature of the cashiers' cage employee receiving and recording the information required by this subsection.

(ix) The signature of the cashiers' cage supervisor or accounting department supervisor authorizing the wire transfer.

(6) When sending a wire transfer on behalf of a patron, the procedures pursuant to which the identity of the patron is verified and documented and the cashiers' cage accountability adjusted.

(d) If, at the expiration of 14 gaming days following the deposit into its operating account of a wire transfer which has no documented business purpose other than having been accepted to enable a patron to take part in gaming, the wired funds remain in a slot machine licensee's operating account or cashiers' cage accountability, the slot machine licensee shall, on the next gaming day, take all steps necessary to return to the patron by wire transfer the amount initially accepted. The wire transfer shall be sent to the financial institution and to the account number from which the funds were debited. This reversal of the wire transfer shall be recorded in the wire transfer log maintained under subsection (c)(1).

§ 465.23. Cash equivalents.

(a) Cash equivalents such as recognized traveler's checks, cashiers' checks and money orders may be accepted by a slot machine licensee under § 501.8 (relating to prohibition on check cashing) to enable a person to take part in gaming.

(b) Prior to commencing acceptance of cash equivalents for gaming purposes, each slot machine licensee shall establish a comprehensive system of internal controls addressing the acceptance and verification of cash equivalents. The internal controls shall be submitted to and

approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

(c) The internal control procedures developed and implemented by the slot machine licensee under subsection (b) must include:

(1) A requirement that cashiers' cage employees perform the specific verification procedures required by the issuer of each cash equivalent accepted. The slot machine licensee shall retain adequate documentation evidencing the verification of each cash equivalent.

(2) A requirement that cashiers' cage employees examine each cash equivalent for counterfeiting, forgery or alteration.

(3) When a slot machine licensee elects to incorporate into its verification procedures a level of reliance on previously accepted cash equivalents, the procedures must articulate the general parameters governing the reliance.

(4) Criteria for cashiers' cage supervisor involvement in the verification process.

(5) Procedures for verifying any patron signature on the cash equivalent. Signature verification must be accomplished in accordance with the signature verification procedures in § 465.21 (relating to personal checks). The slot machine licensee shall retain adequate documentation evidencing each signature verification.

§ 465.24. Customer deposits.

(a) At the request of a patron, a slot machine licensee may hold cash, funds accepted by means of wire transfer in accordance with § 465.22 (relating to wire transfers) or cash equivalents accepted in accordance with § 465.23 (relating to cash equivalents) for a patron's subsequent use for gaming purposes. For the purposes of this section, after complying with this subpart for acceptance and verification, noncash items shall be considered converted to cash and deposited as cash for credit to the patron in a customer deposit account maintained in the cashiers' cage.

(b) Prior to agreeing to hold a patron's cash, funds accepted by means of wire transfer in accordance with § 465.22 or cash equivalents accepted in accordance with § 465.23 for a patron's subsequent use for gaming purposes, each slot machine licensee shall establish a comprehensive system of internal controls addressing the receipt and withdrawal of a customer deposit. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

(c) The internal control procedures developed and implemented by the slot machine licensee under subsection (b) must include:

(1) A requirement that customer deposits be accepted at the cashiers' cage.

(2) A requirement that customer deposits be withdrawn by the patron at the cashiers' cage or upon receipt by the slot machine licensee of a written request for withdrawal whose validity has been established.

(3) A requirement that the patron receive a receipt for any customer deposit accepted reflecting the total amount deposited, the date of the deposit and the signature of the cashiers' cage employee accepting the customer deposit.

(4) Procedures for verifying the identity of the patron at the time of withdrawal. Signature verification must be accomplished in accordance with the signature verifica-

tion procedures under § 465.21 (relating to personal checks). The slot machine licensee shall retain adequate documentation evidencing the patron identification process and signature verification.

§ 465.25. Count room characteristics.

(a) Each slot machine licensee shall have adjacent or reasonably proximate to the cashiers' cage a room, to be known as a count room, specifically designated, designed and used for counting the contents of slot cash storage boxes.

(b) The count room shall be designed and constructed to provide maximum security for the materials housed therein and for the activities conducted therein. Each slot machine licensee shall design and construct a count room with the following security measures:

(1) A metal door installed on each entrance and exit equipped with an alarm device which audibly signals the surveillance department monitoring room and the security department whenever a door to the count room is opened at times other than those times for which the slot machine licensee has provided prior notice under § 465.26 (relating to counting of slot cash storage boxes).

(2) Each entrance and exit door must be equipped with two separate locks, the keys to which must be different from each other and different from the lock securing the contents of each slot cash storage box. The key to one of the locks shall be maintained and controlled by the security department and the key to the other lock shall be maintained and controlled by slot accounting. Sign-out and sign-in procedures must be established for both keys.

(c) Located within the count room must be:

(1) A table constructed of clear glass or similar material for the emptying, counting and recording of the contents of slot cash storage boxes.

(2) Surveillance cameras capable of the following:

(i) Effective video monitoring of the entire count process.

(ii) Effective video monitoring of the interior of the count room, including any storage cabinets or trolleys used to store slot cash storage boxes and any Board-approved trolley storage area located adjacent to the count room.

§ 465.26. Counting and recording of slot cash storage boxes.

(a) Each slot machine licensee shall place on file with the Board, in the manner prescribed by the Board, a schedule setting forth the specific times during which the contents of slot cash storage boxes are to be counted and recorded. Any deviation from the schedule shall be noticed to the Board in advance in a manner prescribed by the Board.

(b) Computerized equipment utilized to count and strap currency, gaming vouchers and coupons must:

(1) Automatically provide two separate counts of the funds at different stages of the count process and, if the separate counts are not in agreement, document the discrepancy.

(2) Be capable of determining the value of a gaming voucher or coupon by independently examining information printed on the gaming voucher or coupon. The information is used by the counting equipment to either calculate the value internally or obtain the value directly from the gaming voucher system or coupon system in a secure manner as approved by the Board. If the gaming

voucher system is utilized to obtain the value of a gaming voucher or coupon, the gaming voucher system must perform a calculation or integrity check to ensure that the value has not been altered in the system in any manner since the time of issuance.

(c) Persons accessing the count room when uncounted funds are present shall wear clothing without any pockets or other compartments with the exception of representatives of the Board, the Department, the Pennsylvania State Police, the security department and the internal audit department.

(d) Persons present in the count room may not:

(1) Carry a handbag or other container unless it is transparent.

(2) Remove their hands from or return them to a position on or above the count table or counting equipment unless the backs and palms of the hands are first held straight out and exposed to the view of other members of the count team and a surveillance camera.

(e) Immediately prior to the commencement of the count, a count room employee shall notify the surveillance department that the count is about to begin to facilitate the recording, under § 465.10(e) (relating to surveillance system; surveillance department control; surveillance department restrictions), of the entire count process.

(f) Prior to commencing gaming operations, each slot machine licensee shall establish a comprehensive system of internal controls addressing the opening, counting and recording of the contents of slot cash storage boxes. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

(g) The internal controls developed and implemented by the slot machine licensee under subsection (f) must include a description of the computer equipment used in the counting and recording process and other systems, if any, that communicate with that computer equipment for purposes related to the counting of gross terminal revenue.

(h) Any gaming voucher or coupon deposited in a slot cash storage box shall be counted and included in the calculation of gross terminal revenue without regard to the validity of the gaming voucher or coupon.

(i) Any coupon which has not already been canceled upon acceptance or during the count shall be canceled prior to the conclusion of the count, in a manner approved by the Board.

(j) Any variance between the value of cash gaming vouchers and coupons in a slot cash storage box as determined in the count room and the value for that particular slot cash storage box recorded on corresponding reports generated by the gaming voucher system or coupon system shall be disclosed to the Board in a detailed written report citing each variance, the reason for the variance and the corrective action taken. This variance report shall be filed by the slot machine licensee with the Board within 72 hours of the count that is the subject of the comparison and shall be filed in the manner prescribed by the Board.

§ 465.27. Jackpot payouts.

(a) Prior to commencing gaming operations, each slot machine licensee shall establish a comprehensive system of internal controls addressing jackpot payouts that are not paid directly from a slot machine. The internal

controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

(b) The internal control procedures developed and implemented by the slot machine licensee under subsection (a) must include:

(1) A request for jackpot payout document or, in the alternative, an electronic entry into a slot computer system generating jackpot payouts, by a slot attendant or slot supervisor, evidencing the observation by the slot attendant or slot supervisor of the winning combination of characters on the slot machine and a determination as to the appropriate amount of the jackpot payout based on the observed winning combinations.

(2) A requirement that the preparer of the request for jackpot payout document or, in the alternative, the employee performing the electronic entry into the slot computer system, be a slot supervisor if the hand paid jackpot is \$10,000 or more.

(3) A requirement that the following information be on the request for jackpot payout document or electronically entered into the slot computer system and maintained in stored data:

(i) The date and time of the jackpot.

(ii) The asset number of the slot machine on which the jackpot was registered.

(iii) The winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot.

(iv) The amount of the jackpot payout.

(v) The method of payment requested by the patron (that is, cash, slot licensee check).

(vi) The signature or identification code of the preparer.

(vii) The following additional signatures or identification codes shall be required if the slot machine or the progressive meter is reset prior to the patron being paid or if payment is made directly to the patron by a slot cashier:

(A) The signature or identification code of a security department member or slot attendant other than the preparer attesting to the winning combination of characters constituting the jackpot and the amount of the jackpot payout.

(B) The signature or identification code of the slot shift manager attesting to the winning combination of characters constituting the jackpot and the amount of the jackpot payout when the jackpot amount is \$25,000 or more.

(4) A requirement that following preparation the request for jackpot payout document be immediately transported by the preparer, or the information made available by the slot computer system, to the cashiers' cage where it will serve to authorize the preparation of a jackpot payout document.

(5) A requirement that if the winning patron will not be paid before the slot machine or progressive meter is reset, the preparer of the request for jackpot payout document or the employee performing the electronic entry required by paragraph (1) shall also prepare a two part receipt document containing the following information:

(i) The date and time of the jackpot.

(ii) The asset number of the slot machine on which the jackpot was registered.

(iii) The winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot.

(iv) The amount of the jackpot payout.

(v) The signature of the winning patron on the original form only.

(vi) The signature of the preparer attesting that the information on the receipt document is correct and agrees with the information on the request for jackpot payout document or in stored data.

(6) A requirement that the receipt document be distributed as follows:

(i) The original shall be immediately delivered to the slot cashier by the preparer, security department member or verifying slot attendant along with the request for jackpot payout document if manually generated in accordance with paragraph (1).

(ii) The duplicate shall be immediately presented to the winning patron who shall be required to present the duplicate receipt document before being paid the jackpot in accordance with the procedures set forth in this section.

(7) A requirement that the information in subparagraphs (i)—(vi) be on any jackpot payout document generated by the slot computer system. The data may not be susceptible to change or removal by any personnel after preparation of a jackpot payout document:

(i) The asset number of the slot machine on which the jackpot was registered.

(ii) The winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot.

(iii) The date on which the jackpot occurred.

(iv) The amount that is to be paid from cashiers' cage funds. However, this amount may, in the slot machine licensee's discretion, be rounded up to the nearest whole dollar.

(v) The date, time and method of payment (that is, cash, slot licensee casino).

(vi) The signature or identification code of the preparer.

(8) A requirement that whenever the winning patron is paid directly by the slot cashier the following procedures be followed:

(i) A jackpot payout document be generated by the slot computer system in accordance with paragraph (7).

(ii) If a one-part request for jackpot payout document is involved and a security department member or verifying slot attendant other than the preparer has not signed the one part request for jackpot payout document, the slot cashier shall summon a security department member or slot attendant other than the preparer of the request for jackpot payout document and provide that employee with the request for jackpot payout document. The security department member or verifying slot attendant shall proceed to the slot machine identified on the request for jackpot payout document and sign the request for jackpot payout document attesting that the winning combination of characters on the slot machine and the amount to be paid match those which appear on the request for jackpot payout document. If the jackpot amount is \$25,000 or more, a slot shift manager shall similarly sign the request for jackpot payout document attesting that the winning combination of characters on the slot machine and the

amount to be paid match those which appear on the request for jackpot payout document. The request for jackpot payout document shall then be immediately returned to the slot cashier.

(iii) After the slot cashier determines that the required signatures verifying the winning combination of characters on the slot machine and the amount to be paid have been placed on the one part request for jackpot payout document, if the amount being paid is less than \$10,000, the slot cashier shall pay the winning patron in the presence of the preparer of the request for jackpot payout document. If the amount being paid is \$10,000 or more but less than \$25,000, the slot cashier shall pay the winning patron in the presence of the slot attendant supervisor who prepared the request for jackpot payout document. If the amount being paid by the cashier is \$25,000 or more, the slot cashier shall pay the winning patron in the presence of the slot attendant supervisor and slot shift manager who prepared the request for jackpot payout document in accordance with this subsection. Personnel required by this subsection to witness the payment shall sign the duplicate jackpot payout document attesting to the accuracy of the information on the duplicate jackpot payout document and the disbursement of the payment to the patron.

(iv) If a receipt document under paragraph (5) was issued, the duplicate receipt document shall be signed by the patron in the presence of the slot cashier. The slot cashier shall compare the signature on the duplicate receipt document to that on the original receipt document and make the payment only if the signatures are in agreement.

(v) Once payment has been made and the required signatures obtained, the slot cashier shall give the duplicate jackpot payout document to a security department member or slot attendant who shall expeditiously deposit it into a locked accounting box.

(vi) The slot cashier shall attach the request for jackpot payout document, if applicable, the original and duplicate receipt document, if applicable, to the original copy of the jackpot payout document. All documents shall be forwarded by the end of the gaming day to the main bank for reimbursement.

(9) A requirement that whenever a winning patron is paid by a slot attendant or slot attendant supervisor, the following procedures are followed:

(i) A jackpot payout document be generated by the slot computer system in accordance with paragraph (7).

(ii) The slot cashier shall disburse the cash or slot licensee check to a slot attendant or slot attendant supervisor if the amount of the jackpot is less than \$10,000 and to a slot attendant supervisor if the amount of the jackpot is \$10,000 or more. The employee receiving the payment shall verify the amount received and sign the original and duplicate of the jackpot payout document attesting to the accuracy of the information on the jackpot payout document and the receipt of the payment from the slot cashier. The slot cashier shall retain the original jackpot payout document and the duplicate jackpot payout document shall be transported with the payment to the slot machine.

(iii) If a one-part request for jackpot payout document is involved and a security department member or verifying slot attendant other than the preparer has not signed the one-part request for jackpot payout document, the slot attendant or slot attendant supervisor shall provide the duplicate jackpot payout document to the security department member or verifying slot attendant other than the preparer at the slot machine who shall verify that the winning combination of characters on the slot machine and the amount to be paid match those which appear on the duplicate jackpot payout document. If the jackpot amount is \$ 25,000 or more, and the slot shift manager has not signed the request document, the slot shift manager shall similarly verify that the winning combination of characters on the slot machine and the amount to be paid match those which appear on the duplicate jackpot payout document.

(iv) Once the verifications required by subparagraph (iii) have been completed, if the payment is less than \$10,000, the slot attendant or slot attendant supervisor shall pay the winning patron in the presence of the security department member or second slot attendant who verified the winning combination of characters on the slot machine and the amount to be paid. If the payment is \$10,000 or more, but less than \$25,000, the payment shall be made by a slot attendant supervisor in the presence of the security department member or verifying slot attendant who verified the winning combination of characters on the slot machine and the amount to be paid. If the payment is \$25,000 or more, the payment shall be made by a slot attendant supervisor in the presence of the security department member or verifying slot attendant and the slot shift manager who verified the winning combination of characters on the slot machine and the amount to be paid. Once the patron has been paid, all personnel required by subparagraph (iii) to witness the payment shall sign the duplicate jackpot payout document attesting that the winning combination of characters on the slot machine and the amount to be paid match those which appear on the duplicate jackpot payout document and the disbursement of the payment to the winning patron.

(v) If a receipt document under paragraph (5) was issued, the slot cashier must give the slot attendant or slot attendant supervisor the original receipt document along with the duplicate jackpot payout document to be transported with the payment. The patron shall be required to sign the duplicate receipt document in the presence of the slot attendant or slot attendant supervisor. The slot attendant or supervisor shall compare the signature on the duplicate receipt document to that on the original receipt document and make the payment only if the signatures are in agreement.

(vi) Once payment has been made and the required signatures obtained, the security department member or slot attendant shall expeditiously deposit the duplicate jackpot payout document into a locked accounting box.

(vii) The slot attendant or slot attendant supervisor shall immediately return the original and duplicate receipt document, if applicable, to the cashiers' cage.

(viii) The slot cashier shall attach the request for jackpot payout document, if applicable, the original and duplicate receipt document, if applicable, to the original copy of the jackpot payout document. All documents shall be forwarded by the end of the gaming day to the main bank for reimbursement.

(10) A requirement that the slot machine licensee's accounting department perform, at the conclusion of each gaming day, effective income control audit procedures over the issuance of jackpot payouts including adequate comparisons to gaming voucher system data.

(11) Details with regard to processing of system overrides or adjustments.

(c) Nothing in this section precludes the use of a slot computer system, as approved by the Board, that electronically records the information required on a request for jackpot payout document or facilitates through the slot computer system the verifications and comparisons as to winning combination of characters on the slot machine or amount to be paid required under this section.

(d) Nothing in this section precludes a slot machine licensee from implementing procedures pursuant to which a slot attendant, in the presence of a member of the security department, utilizes an imprest inventory of funds secured in a pouch or wallet to pay a jackpot of less than \$1,200 that is not totally and automatically paid directly from a slot machine.

(e) Prior to the payment of a jackpot payout under subsection (d), each slot machine licensee shall establish a comprehensive system of internal controls addressing this method of jackpot payout, the replenishment of the imprest pouch and the attendant reconciliation process. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

§ 465.28. Annuity jackpots.

(a) *Definition.* The following term, when used in this section, has the following meaning, unless the context clearly indicates otherwise:

Annuity jackpot—A slot machine jackpot pursuant to which a patron wins the right to receive fixed cash payments at specified intervals in the future.

(b) *Annuity jackpots.* A slot machine licensee offering an annuity jackpot payable over 10 years or more may offer a winning patron the option to be paid in a single cash payout, in lieu of the annuity jackpot, in an amount that is equal to the present value of the face amount of the jackpot payout as calculated in subsection (c).

(c) *Cash payment option.* The present value of the cash payout option on an annuity shall be determined by applying a discount rate to each of the future annuity jackpot payments, taking into consideration the number of years until each jackpot payment would otherwise have been received and adding to that amount the amount of the first cash payment that would otherwise have been received. For the purposes of this subsection, the discount rate must equal the United States Treasury constant maturity rate for 20 year United States government securities for the week ending prior to the date of the jackpot, as identified in the applicable H.15 Statistical Release issued by the Federal Reserve Board plus 0.5%.

(d) *Restriction on annuity payout.* A slot machine licensee may not offer an annuity jackpot payout unless:

(1) The terms and conditions of the annuity jackpot, including the effect on the calculation of the theoretical payout percentage, comply with the act, this subpart and technical standards on jackpot payouts approved by the Board.

(2) The Board has approved the specific offer of the annuity jackpot.

(e) *Cash payout with an annuity jackpot.* A cash payout made in connection with an annuity jackpot must be made in accordance with § 465.27 (relating to jackpot payouts).

(f) *Internal controls.* Prior to the payment of an annuity jackpot, each slot machine licensee shall establish a comprehensive system of internal controls addressing the payment of an annuity jackpot. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

(1) The internal control procedures developed and implemented by the slot machine licensee must include:

(i) Procedures to be followed by a winning patron to exercise a cash payout option.

(ii) Procedures with regard to the administration of the trust agreement established to insure the future cash payments due pursuant to the annuity jackpot award.

(iii) A requirement that the trustee for the trust fund established by the trust agreement be a slot machine licensee or, for a wide area progressive system offering an annuity jackpot, the slot system operator for that wide area progressive system.

(2) A slot machine licensee may not offer an annuity jackpot until its supporting trust agreement and the internal controls required under this subsection have been approved in writing by the Board.

§ 465.29. Merchandise jackpots.

(a) *Definition.* The following term, when used in this section, has the following meaning, unless the context clearly indicates otherwise:

Merchandise jackpot—A slot machine jackpot in the form of:

(i) Merchandise or a thing of value.

(ii) A cash payout and a payout of merchandise or a thing of value.

(iii) An option to choose between a cash payout and a payout of merchandise or a thing of value.

(b) *Restriction.* A slot machine licensee may not offer a merchandise jackpot payout unless:

(1) The terms and conditions of the merchandise jackpot, including the effect on the calculation of the theoretical payout percentage, comply with the act, this subpart and technical standards on jackpot payouts approved by the Board.

(2) The Board has approved the specific offer of the merchandise jackpot.

(c) *Cash payout.* Any cash payout made in connection with a merchandise jackpot must be made in accordance with § 465.27 (relating to jackpot payouts).

(d) *Internal controls.* Prior to the payment of a merchandise jackpot, each slot machine licensee shall establish a comprehensive system of internal controls addressing the payment of a merchandise jackpot. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

§ 465.30. Automated teller machines.

Automated teller machines may be placed at any location within the licensed facility.

§ 465.31. Waiver of requirements.

The Board may waive one or more of the requirements of this chapter or technical standards applicable to accounting and internal controls adopted by the Board upon a determination that the nonconforming control or procedure nonetheless meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board.

CHAPTER 467. COMMENCEMENT OF SLOT OPERATIONS

Sec.

467.1. Gaming floor plan.

467.2. Commencement of slot operations generally.

§ 467.1. Gaming floor plan.

(a) Each applicant for, or holder of a slot machine license, shall submit to the Board, in a manner the Board requires, a floor plan of its gaming floor and the restricted areas servicing the slot operation. Each floor plan shall be drawn to 1/8 inch scale or other scale approved by the Board, shall be certified by an architect licensed to practice in this Commonwealth and depict the following:

- (1) The gaming floor with notations as to:
 - (i) Proposed total square footage.
 - (ii) The perimeter of the gaming floor.
 - (iii) A clearly delineated route for underage persons to transverse the gaming floor.
- (2) Each slot machine area on the gaming floor and each slot machine location within each slot machine area. Slot machine locations shall be identified by number in accordance with § 463.3 (relating to slot machine location).
- (3) The number of slot machines on the gaming floor, in total and by slot area. The number must be in compliance with section 1210 of the act (relating to number of slot machines).
- (4) Each slot seat on the gaming floor in compliance with § 461.7(t) (relating to slot machine minimum design standards).
- (5) Each surveillance camera installed in compliance with § 465.10(a) (relating to surveillance system; surveillance department control, surveillance department restrictions), noting its type and camera number.
- (6) The cashiers' cage and any satellite cashiers' cage, inclusive of each cashiers' cage window and window number, ancillary offices and areas.
- (7) Each count room and any trolley storage area.
- (8) Each automated bill breaker, gaming voucher redemption, coupon redemption and jackpot payout machine.
- (9) Each automated teller machine.

(10) Each area designated for the storage or repair of slot machines.

(11) Vault and armored car bay locations.

(12) Additional documentation as requested by the Board.

(b) A slot machine licensee may not commence slot operations until the floor plan depicting its gaming floor and all restricted areas servicing the slot operation has been approved in writing by the Board. The approval by the Board will expressly authorize the maximum square footage of gaming floor and maximum number of slot machines which may be operated by the slot machine licensee.

(c) A slot machine licensee may not change or revise the square footage of its gaming floor or the number of slot machines on the floor plan approved under subsection (b) without prior written approval of the Board.

§ 467.2. Commencement of slot operations generally.

(a) In addition to obtaining a slot machine license, prior to the commencement of slot operations at a licensed facility each slot machine licensee shall demonstrate that:

- (1) The licensed facility, including the gaming floor and the restricted areas servicing the slot operation, complies in all respects with the act, this subpart and technical standards adopted by the Board.
- (2) Slot machines and associated equipment installed in the licensed facility and utilized in the conduct of slot machine operations have been tested and approved by the Board in compliance with the act, this subpart and technical standards adopted by the Board.
- (3) The gaming floor plan required under § 467.1(a) (relating to gaming floor plan) has been approved by the Board in compliance with the act, this subpart and technical standards adopted by the Board.
- (4) The slot machine licensee's proposed site plan and internal control systems and audit protocols have been approved by the Board in compliance with the act, this subpart and technical standards adopted by the Board.
- (5) The slot machine licensee is prepared to implement necessary management controls, surveillance and security precautions to insure the efficient conduct of slot operations.
- (6) The slot machine licensee's employees are licensed and trained in the performance of their responsibilities.
- (7) The slot machine licensee has complied with any conditions prerequisite to commencement of slot operations contained in the Statement of Conditions executed under § 423.3 (relating to license issuance and statement of conditions).
- (8) The licensed facility is prepared in all respects to receive the public.
- (9) The slot machine licensee has successfully completed a test period in accordance with the terms and conditions required by the Board.

(b) Upon a slot machine licensee's successful demonstration of the criteria enumerated in subsection (a), the Board may authorize the date and time at which the slot machine licensee may commence slot operations at the licensed facility and will fix the maximum square footage of gaming floor and maximum number of slot machines which may be operated by the slot machine licensee pursuant to that authorization.

[Pa.B. Doc. No. 06-1317. Filed for public inspection July 21, 2006, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 461a]

Digital Video Recording Formats

On June 15, 2006, the Pennsylvania Gaming Control Board (Board) adopted a statement of policy in § 461a.2 (relating to slot machine tower lights and error conditions) which provided technical standards for slot machine tower lights for use at a licensed facility. The Board has decided to make editorial changes to this statement of policy.

Therefore, the Board has deposited with the Legislative Reference Bureau an amendment to § 461a.2. The amendment is effective upon publication in the *Pennsylvania Bulletin*.

This technical standard, § 461a.2, under Chapter 461a, is amended to read as set forth in Annex A, with ellipses referring to the existing text of this statement of policy.

Fiscal Impact

This technical standard will have no appreciable fiscal impact upon the Commonwealth.

Contact Person

Further information is available by contacting the Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060.

Effective Date

This statement of policy will take effect upon publication in the *Pennsylvania Bulletin*.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-37. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart E. SLOT MACHINE TESTING, APPROVAL AND CONTROL

CHAPTER 461A. TECHNICAL STANDARDS—STATEMENT OF POLICY

§ 461a.2. Slot machine tower lights and error conditions.

* * * * *

(b) A slot machine tower light must consist of two separate lights, one on top of the other, that function in accordance with this section.

* * * * *

(2) The top light of the two lights must be white. The color of the bottom light must indicate the default denomination of the slot machine to which it is attached:

* * * * *

(vii) Purple means a \$10 or higher denomination slot machine.

(3) A slot machine licensee may, with the approval of the Board, utilize an alternative color scheme for the bottom light of the slot machine tower light in paragraph (2). The alternative color scheme may include:

(i) Assignment of a unique color to identify any single denomination or combination of denominations of slot machines in paragraph (2)(i) provided that the 5c denomination or any combination that includes the 5c denomination will always be the color red.

(ii) Assignment of a unique color to identify any single denomination or combination of denominations of slot machines in paragraph (2)(vii) provided that the \$100 denomination or any combination that includes the \$100 denomination will always be the color purple.

(iii) Assignment of the color yellow to identify all 25c and 50c denomination slot machines.

(iv) Assignment of the color blue to identify combinations of all \$1 and \$2 denomination slot machines or all \$1, \$2 and \$5 denomination slot machines.

* * * * *

[Pa.B. Doc. No. 06-1318. Filed for public inspection July 21, 2006, 9:00 a.m.]

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