

RULES AND REGULATIONS

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 465a]

Possession of Weapons within a Licensed Facility

With this final-omitted rulemaking, the Pennsylvania Gaming Control Board (Board) amends § 465a.13 (relating to possession of weapons within a licensed facility) to read as set forth in Annex A.

Omission of Proposed Rulemaking

Under section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), known as the Commonwealth Documents Law (CDL), and the regulation thereunder, 1 Pa. Code § 7.4 (relating to omission of notice of proposed rulemaking), the Board finds that notice of proposed rulemaking under these circumstances is unnecessary and impractical and is therefore omitted. The Board's justification for utilizing the final-omitted rulemaking process is that the amendments to § 465a.13 are required under the amendments to 18 Pa.C.S. (relating to Crimes Code) by the act of June 28, 2011 (P. L. 48, No. 10) (Act 10), which supersedes the Board's regulations on the possession of firearms in privately owned licensed casino facilities.

Purpose of the Final-Omitted Rulemaking

This final-omitted rulemaking eliminates the Board's prohibition on the possession of firearms within a licensed facility to conform to Act 10. Prohibiting the possession of firearms is left to the discretion of each licensed facility.

Explanation

In 2008, the Board promulgated regulations prohibiting the possession of weapons, including firearms, within a licensed facility. The regulations provided a mechanism by which individuals could request Board approval to possess weapons.

Act 10 amended the Commonwealth's firearms laws and in so doing prohibited Commonwealth agencies from regulating the possession of firearms in any manner inconsistent with 18 Pa.C.S. See 18 Pa.C.S. § 6109(m.3) (relating to licenses).

The Office of Attorney General reviewed for legality § 465a.13 on the possession of firearms and advised that in light of the statutory amendments to 18 Pa.C.S., the Board no longer had the authority to limit the possession of firearms in a licensed casino facility by persons who possess a valid permit to carry.

To comply with Act 10, the Board is amending the provisions on possession in § 465a.13 by deleting the Board mandated prohibition. The Board added to § 465a.13 that a licensee may exercise its common law right to prohibit the possession of firearms on its property provided that it posts notice of the prohibition at all entrances.

Affected Parties

Slot machine licensees will be impacted by this final-omitted rulemaking as it is left to the discretion of each operator to prohibit the possession of firearms on its property. On August 21, 2014, operators were notified that a rulemaking on firearms possession would be forthcoming.

Fiscal Impact

Commonwealth. The Board does not expect that this final-omitted rulemaking will have fiscal impact on the Board or other Commonwealth agencies.

Political subdivisions. This final-omitted rulemaking will not have fiscal impact on political subdivisions of this Commonwealth.

Private sector. This final-omitted rulemaking will not have fiscal impact on the private sector provided that if the regulated entities exercise their common law right to prohibit the possession of firearms on their property, they will be required to post notice of the prohibition at each entrance.

General public. This final-omitted rulemaking will not have fiscal impact on the general public.

Paperwork Requirements

There are no paperwork requirements associated with this final-omitted rulemaking.

Effective Date

The final-omitted rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

The contact person for questions about this final-omitted rulemaking is Susan A. Yocum, Assistant Chief Counsel, (717) 346-8324.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on March 11, 2015, the Board submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Community, Economic and Recreational Development Committee and the House Gaming Oversight Committee. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on April 15, 2015, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 16, 2015, and approved the final-omitted rulemaking.

Findings

The Board finds that:

(1) The final-omitted rulemaking is necessary for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

(2) The procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are, under the circumstances, unnecessary.

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(a) The regulations of the Board, 58 Pa. Code Chapter 465a, are amending by amending § 465a.13 to read as set forth in Annex A.

(b) The Chairperson of the Board certifies this order and Annex A and shall deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

WILLIAM H. RYAN, Jr.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 45 Pa.B. 2218 (May 2, 2015).)

Fiscal Note: 125-184. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.13. Possession of weapons within a licensed facility.

(a) Except as provided in subsection (b), individuals, including security department personnel, are prohibited from possessing weapons capable of producing death or serious bodily injury, as defined in 18 Pa.C.S. § 2301 (relating to definitions), stun guns or other devices designed to injure or incapacitate a person within a licensed facility.

(b) The Board's prohibition in subsection (a) does not apply to the possession of firearms carried in accordance with 18 Pa.C.S. §§ 6101—6127 (relating to Pennsylvania Uniform Firearms Act of 1995). A slot machine licensee may exercise its common law right to prohibit the possession of firearms in accordance with subsections (c) and (d).

(c) A licensee may not prohibit the following individuals from possessing a weapon capable of producing death or serious bodily injury, including a firearm, stun gun or other device designed to injure or incapacitate a person within its facility:

(1) Pennsylvania State Police assigned to its Gaming Enforcement Office.

(2) An on-duty officer or agent of any local, State or Federal law enforcement agency when the officer or agent is acting in an official capacity.

(d) A slot machine licensee that prohibits individuals from possessing firearms shall post in a conspicuous location at each entrance to the licensed facility signs that provide the public with notice that the possession of firearms, weapons capable of producing death or serious bodily injury, stun guns and other devices designed to injure or incapacitate a person is prohibited.

(e) A slot machine licensee that does not prohibit individuals from possessing firearms shall post in a conspicuous location at each entrance to the licensed facility signs that provide the public with notice that the possession of weapons capable of producing death or serious bodily injury, other than firearms carried in

accordance with 18 Pa.C.S. § 6109 (relating to licenses), stun guns or other devices designed to injure or incapacitate a person is prohibited.

[Pa.B. Doc. No. 15-907. Filed for public inspection May 15, 2015, 9:00 a.m.]

Title 61—REVENUE

BOARD OF CLAIMS

[61 PA. CODE CH. 899]

Rules of Procedure

The Board of Claims (Board) amends Chapter 899 (relating to Rules of Procedure) to read as set forth in Annex A. The Board acts under authority of 62 Pa.C.S. § 1722(6) (relating to powers and duties of board) and sections 504(a) and 1307 of the Right-to-Know Law (RTKL) (65 P. S. §§ 67.504(a) and 67.1307).

Purpose and Explanation of this Final-Omitted Rulemaking

This final-omitted rulemaking amends the Board's Rules of Procedure to conform to 62 Pa.C.S. §§ 1721—1726 (relating to Board of Claims), the Board's enabling statute, and the RTKL.

The definition of "claim" in Rule 899.103 (relating to definitions) is amended to conform to 62 Pa.C.S. §§ 1701 and 1712.1(c) (relating to definitions; and contract controversies). Rule 899.105 is rescinded to eliminate conflict with 62 Pa.C.S. § 1724 (relating to jurisdiction). Rules 899.108 and 899.201(c) (relating to service of legal papers; and statement of claim) are amended to conform to 62 Pa.C.S. § 1725(a) and (b) (relating to procedure). Amendments to Rule 899.109 (relating to copy fees) reflect the Board's publication of its Right-to-Know Policy in accordance with sections 504(b) and 1307 of the RTKL. The Board also makes a technical amendment to the form for notice of service in Rule 899.401(f) (relating to discovery), reflecting years beginning with "20" rather than "19."

Contact Person

Interested persons may contact Frank C. Kahoe, Jr., Counsel, Board of Claims, 200 North 3rd Street, Suite 700, Harrisburg, PA 17101-1518, (717) 787-3325, fkahoe@boc.state.pa.us.

Effective Date

This final-omitted rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

Final-Omitted Rulemaking

The Board has promulgated these amendments as a final-omitted rulemaking. The Board believes the amendments meet the criteria in section 204(1)(iii) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(1)(iii)), known as the Commonwealth Documents Law (CDL), and 1 Pa. Code § 7.4(1)(iii) (relating to omission of notice of proposed rulemaking), which permit the omission of proposed rulemaking for regulations which relate to "agency procedure or practice." On February 10, 2015, the Board submitted the final-omitted rulemaking to the Office of Attorney General to conduct a pre-review of the

Board's justification for submittal as a final-omitted rulemaking under section 204(1)(iii) of the CDL. On February 17, 2015, the Office of Attorney General notified the Board that it approved the submission of the amendments as a final-omitted rulemaking.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on March 11, 2015, the Board submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Finance Committee and the Senate State Government Committee. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on April 15, 2015, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 16, 2015, and approved the final-omitted rulemaking.

Findings

The Board finds that:

(1) The Board may omit notice of proposed rulemaking under section 204(1)(iii) of the CDL and the regulation thereunder, 1 Pa. Code § 7.4(1)(iii).

(2) The amendments to Chapter 899 are necessary and appropriate for practice before the Board.

Order

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

(a) The regulations of the Board, 61 Pa. Code Chapter 899, are amended by deleting Rule 899.105 and amending Rules 899.103, 899.108, 899.109, 899.201 and 899.401 to as set forth in Annex A.

(b) The Chief Administrative Law Judge shall submit this order and Annex A to the Office of Attorney General for approval as to form and legality as required by law.

(c) The Chief Administrative Law Judge shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

JEFFREY F. SMITH,
Chairperson
Chief Administrative Law Judge

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 45 Pa.B. 2218 (May 2, 2015).)

Fiscal Note: 105-5. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART VI. BOARD OF CLAIMS

CHAPTER 899. RULES OF PROCEDURE

Subchapter A. PRELIMINARY PROVISIONS

Rule 899.103. Definitions.

In addition to the definitions in Pa.R.C.P. No. 76, the following words and terms, when used in this chapter,

have the following meanings, unless the context clearly indicates otherwise:

Board—The Board of Claims of the Commonwealth.

Claim—The statement of facts filed by a contractor or Commonwealth agency stating the grounds upon which the contractor or Commonwealth agency asserts a controversy exists.

Rule—A rule adopted by the Board.

Rule 899.105. (Reserved).

Rule 899.108. Service of legal papers.

Pleadings and other documents filed with the Board shall be served by the filing party upon all other parties to the action by mail. A certificate of service shall be attached to all filings with the Board.

Rule 899.109. Copy fees.

Charges for copying, certifying or otherwise producing documents requested from the Board will be as established by the Board in its Right-to-Know Law Policy which is posted at the Board's office and on its web site in accordance with the Right-to-Know Law (65 P. S. §§ 67.101—67.3104).

Subchapter B. PLEADINGS

Rule 899.201. Statement of claim.

(a) A plaintiff shall prepare a concise and specific written statement of the claim, signed and verified by the plaintiff. The caption of the claim shall contain the full names of all parties to the claim. Each claim shall contain the name, address, telephone number and Supreme Court Identification Number of counsel for the plaintiff.

(b) The plaintiff shall file an original and three copies of the claim with the Board, accompanied by a \$50 check made payable to the Commonwealth of Pennsylvania.

(c) The Board will deliver to the Attorney General a copy of the claims, counterclaims or cross-claims made against the Commonwealth, and any amendments thereto.

Subchapter D. DISCOVERY

Rule 899.401. Discovery.

(a) Except when required under subsection (c) or (d), discovery material may not be filed with the Board. The party serving the discovery material or taking the deposition shall retain the original and be custodian of it.

(b) If a part of discovery material is used as evidence in connection with a motion, the relevant part shall be set forth, verbatim, in the motion or response. If discovery material is used as evidence at the hearing, the party offering it shall read it into the record or, if directed to do so by the Board, offer it as an exhibit.

(c) The Board will resolve a dispute concerning the accuracy of a quotation of discovery material used as provided in subsection (b) and may require production of the original paper or transcript.

(d) The Board, on its own motion, on the motion of a party or on an application by a nonparty, may require the filing of original discovery material. The parties may provide for the filing by stipulation.

(e) A party serving a request for discovery including depositions by oral examination, and a party filing written responses thereto shall file with the Board and serve upon all other parties or their counsel a notice of service substantially in the form prescribed in subsection (f). A party which files a motion or petition under Rule 899.301 or Rule 899.402 (relating to motions and petitions; and discovery motions) in response to a discovery request or a discovery response is not required to file and serve a notice of service in addition thereto.

(f) The notice of service required by subsection (e) shall be substantially in the following form:

(CAPTION)

Notice of Service

You are hereby notified that on the _____ day of _____, 20____, (identify discovery request or response) was served upon the following parties or their counsel via United States Mail, first class, postage prepaid, and addressed as follows:

(names and addresses to whom discovery request or response were directed)

Name
Supreme Court I. D. No.
Address
Phone
Attorneys for

[Pa.B. Doc. No. 15-908. Filed for public inspection May 15, 2015, 9:00 a.m.]
