

CHAPTER 1120. EXCLUSION OF PERSONS FROM VIDEO GAMING—TEMPORARY REGULATIONS

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§ 1120.1. Definitions.

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

Career or professional offender—A person, who for the purpose of economic gain, engages in activities that are deemed criminal violations under 18 Pa.C.S. (relating to Crimes Code) or equivalent criminal violations in other jurisdictions, or engages in unlawful activities in 4 Pa.C.S. § 1518(a) (relating to prohibited acts; penalties).

Cheat—

(i) To defraud or steal from any player or video gaming licensee of the Commonwealth while operating or playing a video gaming terminal, including causing, aiding, abetting or conspiring with another person to do so.

(ii) To alter or causing, aiding, abetting or conspiring with another person, without authorization, to alter the elements of chance, method of selection or criteria which determines all of the following:

(A) The result of a video gaming terminal game.

(B) The amount or frequency of payment in a video gaming terminal game.

(C) The value of a wagering instrument.

(D) The value of a wagering credit.

(iii) The term does not include altering a video gaming terminal or associated equipment for required maintenance and repair.

Excluded person—A person who has been placed upon the exclusion list and who is required to be excluded or ejected from an establishment licensee facility.

Exclusion list—A list of names of persons who are required to be excluded or ejected from an establishment licensee's facility.

OCPG—The Office of Compulsive and Problem Gambling of the Board.

§ 1120.2. Maintenance and distribution of the exclusion list.

(a) The Board will maintain a list of persons to be excluded or ejected from an establishment licensee facility.

(b) The exclusion list will be distributed to every terminal operator licensee and establishment licensee in this Commonwealth, who shall acknowledge receipt thereof in writing or electronically.

(c) All of the following information will be provided to the terminal operator licensee and establishment licensee for each person on the exclusion list:

- (1) The full name and all aliases the person is believed to have used.
- (2) A description of the person's physical appearance, including height, weight, type of build, color of hair and eyes, and other physical characteristics which may assist in the identification of the person.
- (3) The person's date of birth.
- (4) The date the person was added to the list.
- (5) A recent photograph, if available.
- (6) The last known address of record.
- (7) Other identifying information available to the Board.
- (8) The reason for placement on the excluded persons list.

§ 1120.3. Criteria for exclusion or ejection.

(a) The exclusion list may include a person who meets one or more of the following criteria:

(1) A career or professional offender whose presence in an establishment licensee's facility would, in the opinion of the Board, be inimical to the interest of the Commonwealth or of licensed video gaming therein, or both.

(2) An individual with a known relationship or connection with a career or professional offender whose presence in an establishment licensee's facility would be inimical to the interest of the Commonwealth or of licensed video gaming therein, or both.

(3) A person who has been convicted of a criminal offense under the laws of any state, or of the United States, which is punishable by 1 year or more in prison, or who has been convicted of any crime or offense involving moral turpitude, and whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed video gaming therein, or both.

(4) A person whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed gaming therein, or both, including:

- (i) Persons who cheat.
- (ii) Persons whose gaming privileges have been suspended by the Board.
- (iii) Persons whose Board permits, licenses, registrations, certifications or other approvals have been revoked.

- (iv) Persons who pose a threat to the safety of the patrons, employees or persons on the property of an establishment licensee's facility.
 - (v) Persons with a history of conduct involving the disruption of the gaming operations within a licensed facility.
 - (vi) Persons subject to an order of a court of competent jurisdiction in this Commonwealth excluding those persons from licensed facilities.
 - (vii) Persons who have been charged, indicted or convicted of a gambling crime or a crime related to the integrity of gaming operations in this Commonwealth or another jurisdiction.
 - (viii) Persons who have performed an act or have a notorious or unsavory reputation that would adversely affect public confidence and trust in gaming.
- (b) For purposes of subsection (a), a person's presence may be considered inimical to the interest of the Commonwealth or of licensed video gaming therein, or both if known attributes of the person's character and background meet one or more of the following criteria:
- (1) Are incompatible with the maintenance of public confidence and trust in the credibility, integrity and stability of the operation of a licensed facility.
 - (2) May reasonably be expected to impair the public perception of, and confidence in, the strict regulatory process created by 4 Pa.C.S. Part III (relating to video gaming).
 - (3) Create or enhance a risk of the fact or appearance of unsuitable, unfair or illegal practices, methods or activities in the conduct of gaming or in the business or financial arrangements incidental thereto.
- (c) A finding of inimicality may be based upon the following:
- (1) The nature and notoriety of the character or background of the person.
 - (2) The history and nature of the involvement of the person with licensed gaming in this Commonwealth or another jurisdiction.
 - (3) The nature and frequency of contacts or associations of the person with an establishment licensee.
 - (4) Other factors reasonably related to the maintenance of public confidence in the efficacy of the regulatory process and the integrity of video gaming operations.
- (d) A person's race, color, creed, national origin or ancestry, or sex will not be a reason for placing the name of a person upon the exclusion list.

Cross References

This section cited in 58 Pa. Code § 1120.6 (relating to demand for hearing on the exclusion of a person).

§ 1120.4. Duties of the Bureau and the Office of Enforcement Counsel.

- (a) The Bureau will, on its own initiative, or upon referral by a law enforcement agency or an establishment licensee, investigate a person to determine whether the person meets the criteria for exclusion provided in 4 Pa.C.S. § 3901

(relating to exclusion or ejection of certain persons) and § 1119.3 (relating to video gaming self-exclusion list).

(b) If, upon completion of an investigation, the Bureau determines that an individual should be placed on the exclusion list, the Office of Enforcement Counsel will file a petition for exclusion with the Clerk identifying the candidate and setting forth a factual basis for the petition. The petition must include information demonstrating that the individual satisfies the criteria for exclusion or ejection under 4 Pa.C.S. § 3901 or this chapter.

§ 1120.5. Placement on the exclusion list.

(a) A person may be placed on the exclusion list upon any of the following:

- (1) Entry of an order of the Board.
- (2) Receipt of an order from a court of competent jurisdiction in this Commonwealth, excluding or ejecting the person from establishment licensee facilities in this Commonwealth.

(b) The placement of a person on the exclusion list shall have the effect of requiring the exclusion or ejection of the excluded person from establishment licensee facilities.

(c) An excluded person may not collect in any manner or in any proceeding any winnings or recover any losses arising as a result of any gaming activity for the entire period of time that the person is on the Board's exclusion list.

(d) Winnings incurred by an excluded person shall be remitted to the Board to support compulsive and problem gambling programs of the Board.

(e) For the purposes of this section, any winnings issued to, found on or about, or redeemed by an excluded person shall be presumed to constitute winnings subject to remittance to the Board.

§ 1120.6. Demand for hearing on the exclusion of a person.

(a) Upon the filing of a petition for exclusion, the Office of Enforcement Counsel will serve the petition upon the person by personal service or certified mail at the last known address of the person. The notice will inform the person of the right to a hearing under 4 Pa.C.S. § 3901(h) (relating to exclusion or ejection of certain persons) and include a copy of the petition.

(b) Upon service of the petition, the person subject to the petition shall have 30 days to demand a hearing before the Board or presiding officer. Failure to demand a hearing within 30 days after service will be deemed an admission of all matters and facts alleged in the Office of Enforcement Counsel's petition for exclusion and preclude the person from having an administrative hearing.

(c) If a formal hearing is demanded by the person named in the petition for exclusion, a hearing will be scheduled as provided in § 491a.8 (relating to hearings generally). At the hearing, the Office of Enforcement Counsel will have the burden of proof to demonstrate that the person named in the petition for exclusion satisfies the criteria for exclusion in 4 Pa.C.S. § 3901 or § 1120.3 (relating

to criteria for exclusion or ejection). Unless the matter is heard directly by the Board, the presiding officer will prepare a report and recommendation as provided in § 494a.4 (relating to report or report and recommendation of the presiding officer) for consideration by the Board.

§ 1120.7. Board review.

After a hearing, or if a hearing was not requested and the facts in the petition are deemed admitted, the Board may:

- (1) Issue an order placing the person's name on the exclusion list.
- (2) Issue an order removing or denying the placement of the person's name on the exclusion list.
- (3) Refer the matter to a presiding officer for further hearing.

§ 1120.8. Duties of establishment licensees.

(a) Establishment licensees shall establish procedures to prevent violations of this chapter and submit a copy of the procedures to the Director of OCPG 30 days prior to initiation of gaming activities at the establishment licensee's facility. An establishment licensee will be notified in writing of any deficiencies in the plan and may submit revisions to the plan to the Director of OCPG. The establishment licensee may not commence operations until the Director of OCPG approves the procedures. Amendments to these procedures shall be submitted to and approved by the Director of OCPG prior to implementation.

(b) Establishment licensees shall distribute copies of the exclusion list to the appropriate employees. Additions, deletions or other updates to the list shall be distributed by an establishment licensee to its employees within 2 business days of the establishment licensee's receipt of the updates from the Board.

(c) An establishment licensee shall exclude or eject from its establishment licensee facility all of the following:

- (1) An excluded person.
- (2) A self-excluded person.

(d) If an excluded person enters, attempts to enter or is in an establishment licensee facility and is recognized by employees of the establishment licensee, the establishment licensee shall do all of the following:

- (1) Immediately notify law enforcement with jurisdiction over the establishment licensee's facility.
- (2) Notify the Director of OCPG and the Bureau in writing within 24 hours.

(e) The establishment licensee has the continuing duty to inform the Bureau, in writing, of the names of persons the establishment licensee believes are appropriate for placement on the exclusion list.

§ 1120.9. Petition to remove name from the exclusion list.

(a) An excluded person may file a petition with the Clerk to request a hearing for removal of his name from the exclusion list at any time after 5 years from the placement of his name on the exclusion list.

(b) The petition shall be signed by the excluded person, contain supporting affidavits and state the specific grounds believed by the petitioner to constitute good cause for removal from the exclusion list. Upon receipt of the petition, the Office of Enforcement Counsel may file an answer in accordance with § 493a.5 (relating to answers to complaints, petitions, motions and other filings requiring a response).

(c) An excluded person who is barred from requesting a hearing concerning his removal from the exclusion list by the 5-year period of exclusion in subsection (a) may petition the Board for early consideration at any time. An excluded person may not, within the 5-year period of exclusion, file more than one petition for early consideration.

(d) A petition for early consideration must contain the information required under subsection (b). Upon receipt of the petition, the Office of Enforcement Counsel may file an answer in accordance with § 493a.5.

(e) The Board will consider, when making its decision on a petition for early consideration, the nature of the facts and circumstances giving rise to the person's placement on the exclusion list, and whether there are extraordinary facts and circumstances warranting early consideration of the excluded person's request for removal from the exclusion list.

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