

CHAPTER 511a. PERSONS REQUIRED TO BE EXCLUDED

- Sec.
511a.1. Definitions.
511a.2. Maintenance and distribution of the exclusion list.
511a.3. Criteria for exclusion or ejection.
511a.4. Duties of the Bureau and Office of Enforcement Counsel.
511a.5. Placement on the exclusion list.
511a.6. Demand for hearing on the placement of a person on the exclusion list.
511a.7. Board review.
511a.8. Duties of slot machine licensees.
511a.9. Petition to remove name from the exclusion list.

Authority

The provisions of this Chapter 511a issued under 4 Pa.C.S. §§ 1202(b)(30), 1207(8), 1514, 1515 and 1518, unless otherwise noted.

Source

The provisions of this Chapter 511a adopted October 26, 2007, effective October 27, 2007, 37 Pa.B. 5785, unless otherwise noted.

Cross References

This chapter cited in 58 Pa. Code § 441a.23 (relating to category 3 slot machine licensees); 58 Pa. Code § 465a.11 (relating to slot machine licensee's organization; jobs compendium); 58 Pa. Code § 603a.20 (relating to Match Play Coupons; physical characteristics and issuance); and 58 Pa. Code § 609a.3 (relating to application and verification procedures for granting credit).

§ 511a.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 and offenses) 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 slot machine licensee of the Commonwealth while operating or playing a slot machine or table game, 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 determine:

(A) The result of a slot machine game or table game.

(B) The amount or frequency of payment in a slot machine game or table game.

(C) The value of a wagering instrument.

(D) The value of a wagering credit.

(iii) The term does not include altering a slot machine, table game, table game device or associated equipment for required maintenance and repair.

(iv) The term includes an act in any jurisdiction that would constitute an offense under 4 Pa.C.S. § 1518(a)(6), (7), (7.1) and (17).

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

Exclusion list—A list of names of persons who are required to be excluded or ejected from a licensed facility.

OCPG—The Office of Compulsive and Problem Gambling.

Authority

The provisions of this § 511a.1 amended under 4 Pa.C.S. §§ 1202(b)(30) and 1207(2) and (9).

Source

The provisions of this § 511a.1 amended February 1, 2013, effective February 2, 2013, 43 Pa.B. 660. Immediately preceding text appears at serial pages (362163) to (362164).

§ 511a.2. Maintenance and distribution of the exclusion list.

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

(b) The exclusion list will be open to public inspection at the Board's central office during normal business hours, posted on the Board's web site and will be distributed to every slot machine licensee within this Commonwealth, who shall acknowledge receipt thereof in writing or electronically.

(c) The following information will be provided to the slot machine licensees 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.

(d) The following information will be made available to the public for each excluded 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 any other physical characteristics which may assist in the identification of the person.

(3) A recent photograph, if available.

(4) Birth year.

Authority

The provisions of this § 511a.2 amended under 4 Pa.C.S. §§ 1202(b)(30) and 1207(2) and (9).

Source

The provisions of this § 511a.2 amended February 1, 2013, effective February 2, 2013, 43 Pa.B. 660. Immediately preceding text appears at serial page (362164).

511a-2

§ 511a.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 a licensed facility would, in the opinion of the Board, be inimical to the interest of the Commonwealth or of licensed gaming therein, or both.

(2) An individual with a known relationship or connection with a career or professional offender whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed 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 more than 1 year 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 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) Cheats.

(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 a slot machine licensee.

(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 with pending charges or indictments for a gambling crime or a crime related to the integrity of gaming operations in this Commonwealth or another jurisdiction.

(viii) Persons who have been convicted of a gambling crime or crime related to the integrity of gaming operations in this Commonwealth or another jurisdiction.

(ix) Persons who have performed an act or have a notorious or unsavory reputation that would adversely affect public confidence and trust in gaming, including, being identified with criminal activities in published reports of various Federal and State legislative and executive bodies that have inquired into criminal or organized criminal activities.

(b) For purposes of subsection (a), a person's presence may be considered "inimical to the interest of the Commonwealth or of licensed 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 the act.

(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, or with a particular slot machine licensee or licensees or an affiliate, intermediary, subsidiary or holding company thereof.

(3) The nature and frequency of contacts or associations of the person with a slot machine licensee or licensees, or with employees or agents thereof.

(4) Other factors reasonably related to the maintenance of public confidence in the efficacy of the regulatory process and the integrity of gaming operations, the gaming industry and its employees.

(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.

Authority

The provisions of this § 511a.3 amended under 4 Pa.C.S. §§ 1202(b)(30) and 1207(2) and (9).

Source

The provisions of this § 511a.3 amended February 1, 2013, effective February 2, 2013, 43 Pa.B. 660. Immediately preceding text appears at serial pages (362164) and (331301) to (331302).

Cross References

This section cited in 58 Pa. Code § 403a.7 (relating to temporary emergency orders); 58 Pa. Code § 511a.4 (relating to duties of the Bureau and the Office of Enforcement Counsel); 58 Pa. Code § 511a.6 (relating to demand for hearing on the placement of a person on the exclusion list); and 58 Pa. Code § 511a.8 (relating to duties of slot machine licensees).

§ 511a.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 a slot machine licensee investigate a person to determine whether the person meets the criteria for exclusion provided in 4 Pa.C.S. § 1514 (relating to regulation requiring exclusion or ejection of certain persons) and § 511a.3 (relating to criteria for exclusion or ejection).

(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 section 1514 of the act or this chapter.

(c) In addition to filing the petition for exclusion, if exigent circumstances exist, the Office of Enforcement Counsel may file a request for a temporary emergency order in accordance with § 403a.7 (relating to temporary emergency orders) provided that:

511a-4

- (1) The procedures in § 403a.7(a)—(i) are applicable to requests for temporary emergency orders filed in conjunction with petitions for exclusion.
- (2) If the request for a temporary emergency order is granted, the person named in the emergency order will be temporarily placed on the exclusion list until the Board acts upon the underlying petition.
- (3) If the person named in the emergency order files a request for an informal hearing under § 403a.7(h), the request for an informal hearing does not toll or stay the time period to request a formal hearing in accordance with § 511a.6 (relating to demand for hearing on the placement of a person on the exclusion list).

Authority

The provisions of this § 511a.4 amended under 4 Pa.C.S. §§ 1202(b)(30) and 1207(2) and (9).

Source

The provisions of this § 511a.4 amended February 1, 2013, effective February 2, 2013, 43 Pa.B. 660. Immediately preceding text appears at serial page (331302).

§ 511a.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 within this Commonwealth, excluding or ejecting the person from licensed facilities in this Commonwealth.
 - (3) Issuance of a temporary emergency order by the Executive Director in accordance with § 403a.7 (relating to temporary emergency orders).
- (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 licensed 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.

Authority

The provisions of this § 511a.5 amended under 4 Pa.C.S. §§ 1202(b)(30) and 1207(2) and (9).

Source

The provisions of this § 511a.5 amended February 1, 2013, effective February 2, 2013, 43 Pa.B. 660. Immediately preceding text appears at serial pages (331302) and (344577).

Cross References

This section cited in 58 Pa. Code § 511a.9 (relating to petition to remove name from the exclusion list).

§ 511a.6. Demand for hearing on the placement of a person on the exclusion list.

(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 must inform the person of the right to a hearing under 4 Pa.C.S. § 1514(g) (relating to regulation requiring 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 affirmative obligation to demonstrate that the person named in the petition for exclusion satisfies the criteria for exclusion in 4 Pa.C.S. § 1514 or § 511a.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.

Authority

The provisions of this § 511a.6 amended under 4 Pa.C.S. §§ 1202(b)(30), 1205 and 1207(2) and (9).

Source

The provisions of this § 511a.6 amended July 10, 2009, effective July 11, 2009, 39 Pa.B. 3446; amended February 1, 2013, effective February 2, 2013, 43 Pa.B. 660. Immediately preceding text appears at serial page (344577).

Cross References

This section cited in 58 Pa. Code § 511a.4 (relating to duties of the Bureau and the Office of Enforcement Counsel).

§ 511a.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.

Authority

The provisions of this § 511a.7 amended under 4 Pa.C.S. §§ 1202(b)(30) and 1207(2) and (9).

Source

The provisions of this § 511a.7 amended February 1, 2013, effective February 2, 2013, 43 Pa.B. 660. Immediately preceding text appears at serial page (344578).

511a-6

§ 511a.8. Duties of slot machine licensees.

(a) Slot machine 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 licensed facility. A slot machine 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 slot machine licensee may not commence operations until the Director of OCPG approves its procedures. Amendments to these procedures shall be submitted to and approved by the Director of OCPG prior to implementation.

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

(c) A slot machine licensee shall exclude or eject the following persons from its licensed facility:

(1) An excluded person.

(2) A person known to the slot machine licensee to satisfy the criteria for exclusion in section 1514 of the act (relating to regulation requiring exclusion or ejection of certain persons) and § 511a.3 (relating to criteria for exclusion or ejection).

(d) If an excluded person enters, attempts to enter, or is in a licensed facility and is recognized by employees of the slot machine licensee, the slot machine licensee shall:

(1) Immediately notify the casino compliance representatives at the licensed facility.

(2) Notify the Director of OCPG in writing within 24 hours.

(e) It shall be the continuing duty of a slot machine licensee to inform the Bureau, in writing, of the names of persons the slot machine licensee believes are appropriate for placement on the exclusion list or a person who has been excluded or ejected under subsection (c)(2) and the reason for placement on the exclusion list.

Authority

The provisions of this § 511a.8 amended under 4 Pa.C.S. §§ 1202(b)(30), 1207, 1311, 1321, 1322 and 1522.

Source

The provisions of this § 511a.8 amended October 10, 2008, effective October 11, 2008, 38 Pa.B. 5652; corrected October 17, 2008, effective October 11, 2008, 38 Pa.B. 5758; amended February 1, 2013, effective February 2, 2013, 43 Pa.B. 660. Immediately preceding text appears at serial pages (344578) to (344579).

§ 511a.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 must 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. However, 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 the following criteria when making its decision on a petition for early consideration:

(1) Whether there are extraordinary facts and circumstances warranting early consideration of the excluded person's request for removal from the exclusion list.

(2) If exclusion was ordered under § 511a.5(a)(2) (relating to placement on the exclusion list), whether the excluded person has completed the period of probation or otherwise satisfied the terms of the court-ordered exclusion.

Authority

The provisions of this § 511a.9 amended under 4 Pa.C.S. §§ 1202(b)(30), 1205 and 1207(2) and (9).

Source

The provisions of this § 511a.9 amended July 10, 2009, effective July 11, 2009, 39 Pa.B. 3446; amended February 1, 2013, effective February 2, 2013, 43 Pa.B. 660. Immediately preceding text appears at serial pages (344579) to (344580).

[Next page is 513-1.]

511a-8