

CHAPTER 1101a. VIDEO GAMING GENERALLY

Sec.

1101a.1. Scope.

1101a.2. Definitions.

Authority

The provisions of this Chapter 1101a added under 4 Pa.C.S. §§ 3301(a) and (b)(30) and 3302, unless otherwise noted.

Source

The provisions of this Chapter 1101a added August 20, 2021, effective August 21, 2021, 51 Pa.B. 5207, unless otherwise noted.

§ 1101a.1. Scope.

The purpose of this subpart is to govern the operation of video gaming terminals in this Commonwealth. Parts I, II and III of 4 Pa.C.S. (relating to amusements generally; gaming; and video gaming) and the Board's regulations promulgated thereunder otherwise apply when not in conflict with this subpart.

§ 1101a.2. Definitions.

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

Applicant—A person who, on his own behalf or on behalf of another, applies for permission to engage in an act or activity that is regulated under this subpart.

Associated equipment—Equipment or a mechanical, electromechanical or electronic contrivance, component or machine used in connection with video gaming terminals or redemption terminals, including replacement parts, hardware and software.

Background investigation—A security, criminal, credit and suitability investigation of a person as provided for in this part that includes the status of taxes owed to the United States, the Commonwealth and political subdivisions.

Bureau—The Bureau of Investigations and Enforcement of the Board.

Bureau of Licensing—The Bureau of Licensing of the Board.

Cash—United States currency and coin.

Cash equivalent—A ticket, token, chip, card or other similar instrument or representation of value that the Board deems a cash equivalent in accordance with this part.

Central control computer—A central site computer controlled by the Department and accessible by the Board to which all video gaming terminals communicate for the purpose of auditing capacity, real-time information retrieval of the details of a financial event that occurs in the operation of a video gaming terminal or redemption terminal, including coin in, coin out, ticket in, ticket

58 § 1101a.2

out, jackpots, video gaming terminal and redemption terminal door openings and power failure, and remote video gaming terminal or redemption terminal activation, and disabling of video gaming terminals or redemption terminals.

Cheat—

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

(ii) The term also means to alter or causing, aiding, abetting or conspiring with another person to alter the elements of chance, method of selection or criteria that determine any 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 maintenance or repair with the approval of a terminal operator licensee and the Board.

Cheating or thieving device—A device, software or hardware:

(i) Used or possessed with the intent to be used to cheat during the operation or play of a video gaming terminal; or

(ii) Used to alter a video gaming terminal without the terminal operator licensee's and the Board's approval.

Commercial motor vehicle—As defined in 75 Pa.C.S. § 1603 (relating to definitions).

Conduct of video gaming—The licensed placement, operation and play of video gaming terminals under this subpart as authorized and approved by the Board.

Controlling interest—Any of the following:

(i) For a publicly traded domestic or foreign corporation, the term means a person has a controlling interest in a legal entity, applicant or licensee if a person's sole voting rights under state law or corporate articles or bylaws entitle the person to elect or appoint one or more of the members of the board of directors or other governing board or the person holds an ownership or beneficial holding of 5% or more of the securities of the publicly traded corporation, partnership, limited liability company or other form of publicly traded legal entity, unless this presumption of control or ability to elect is rebutted by clear and convincing evidence.

(ii) For a privately held domestic or foreign corporation, partnership, limited liability company or other form of privately held legal entity, the term means the holding of any securities in the legal entity, unless this presumption of control is rebutted by clear and convincing evidence.

Convenience store—A retail establishment which sells a limited selection of packaged foods, drug store items, food for consumption on or off the premises, and basic supplies for the home and table, which may include the retail sale of liquid fuels.

Conviction—

(i) A finding of guilt or a plea of guilty or nolo contendere, whether or not a judgment of sentence has been imposed as determined by the law of the jurisdiction in which the prosecution was held.

(ii) The term does not include a conviction that has been expunged or overturned or for which an individual has been pardoned or had an order of accelerated rehabilitative disposition entered.

Corporation—The term includes a publicly traded corporation.

Educational institution—A facility that teaches and certifies students in video gaming terminal design, operation, repair or servicing.

Establishment license—A license issued by the Board authorizing a truck stop establishment to permit a terminal operator licensee to place and operate video gaming terminals on the truck stop establishment's premises under this part.

Establishment licensee—A truck stop establishment that holds an establishment license.

Financial backer—An investor, mortgagee, bondholder, noteholder, or other sources of equity or capital provided to an applicant or licensed entity.

Gaming employee—

(i) Any of the following individuals:

(A) An employee of a terminal operator licensee, establishment licensee or supplier licensee that is not a key employee who is involved in the conduct of video gaming, including servicing and maintaining video gaming terminals, redemption terminals, and security and surveillance equipment, and monitoring the conduct of video gaming and patrons in the video gaming area of an establishment licensee.

(B) An employee of a supplier or manufacturer licensee whose duties are directly involved with the repair or distribution of video gaming terminals or associated equipment sold or provided to a terminal operator licensee in this Commonwealth as determined by the Board.

(C) An employee of a gaming service provider who, in connection with the performance of his duties, has access to a video gaming area, video terminals, redemption terminals, and the security and surveillance systems monitoring a video gaming area.

(ii) The term does not include nongaming personnel as determined by the Board or an employee of an establishment licensee who does not have duties involving the conduct or monitoring of video gaming.

58 § 1101a.2

Gaming service provider—

(i) A person who is not required to be licensed as a terminal operator, manufacturer, supplier or establishment licensee who provides goods or services to a terminal operator licensee that directly relates to the operation and security of a video gaming terminal or redemption terminal.

(ii) The term does not include a person who supplies goods or services that, at the discretion of the Board, does not impact the integrity of video gaming, video gaming terminals or the connection of video gaming terminals to the central control computer system, including all of the following:

(A) Seating to accompany video gaming terminals.

(B) Structural or cosmetic renovations, improvements or other alterations to a video gaming area.

Gross terminal revenue—

(i) The total of cash or cash equivalents received by a video gaming terminal minus the total of cash or cash equivalents paid out to players as a result of playing a video gaming terminal.

(ii) The term does not include counterfeit cash or cash taken in a fraudulent act perpetrated against a terminal operator licensee for which the terminal operator licensee is not reimbursed.

*Incentive—*Consideration, including a promotion or prize, provided to a player or potential player as an enticement to play a video gaming terminal.

Inducement—

(i) Any of the following:

(A) Consideration paid directly or indirectly, from a manufacturer, supplier, terminal operator, procurement agent, gaming employee, employee or another person on behalf of an applicant or anyone licensed under this part, to a truck stop establishment, establishment licensee, establishment licensee owner or an employee of the establishment licensee, directly or indirectly, as an enticement to solicit or maintain the establishment licensee or establishment licensee owner's business.

(B) Cash, incentive, marketing and advertising cost, gift, food, beverage, loan, prepayment of gross terminal revenue and other contribution or payment that offsets an establishment licensee's operational costs, or as otherwise determined by the Board.

(ii) The term does not include costs paid by a terminal operator applicant or terminal operator licensee related to making video gaming terminals operate at the premises of an establishment licensee, including for improvements and renovations to the video gaming area, wiring and rewiring, software updates, ongoing video gaming terminal maintenance, redemption terminals, network connections, site controllers and costs associated with communicating with the central control computer system.

*Key employee—*An individual who is employed by a manufacturer licensee, supplier licensee or terminal operator licensee who is determined by the Board

to be a director or department head or otherwise empowered to make discretionary decisions that regulate the conduct of video gaming.

Key employee licensee—An individual who holds a key employee license.

Key employee qualifier—An individual required to be qualified as part of the truck stop establishment, including an individual who is part of an entity that leases a truck stop establishment or operates a truck stop establishment pursuant to a management or other agreement, who is determined by the Board to be a director or department head or otherwise empowered to make discretionary decisions that regulate the conduct of video gaming.

Law enforcement authority—The power to conduct investigations of or to make arrests for criminal offenses.

Licensed entity—A terminal operator licensee, establishment licensee, manufacturer licensee or supplier licensee under this part.

Licensed facility—As defined in section 1103 of the act (relating to definitions).

Licensed gaming entity—As defined in section 1103 of the act.

Licensee—A person listed under this part.

Manufacturer—A person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs or otherwise makes modifications to a video gaming terminal, redemption terminal or associated equipment for use or play of video gaming terminals in this Commonwealth for video gaming purposes.

Manufacturer license—A license issued by the Board authorizing a manufacturer to manufacture or produce video gaming terminals, redemption terminals or associated equipment for use in this Commonwealth for video gaming purposes.

Manufacturer licensee—A person that holds a manufacturer license.

Minor—An individual under 21 years of age.

Nongaming employee—An individual who is employed by a terminal operator licensee, manufacturer licensee, supplier licensee, gaming service provider or establishment licensee and whose duties do not involve the conduct of video gaming or the monitoring of a video gaming area, either directly or through surveillance.

Nonkey employee—An individual employed by a terminal operator licensee who, unless otherwise designated by the Board, is not a key employee.

Occupation permit—A permit authorizing an individual to be employed or to work as a gaming employee for a terminal operator licensee, an establishment licensee, a gaming service provider, a supplier licensee or as an employee of a manufacturer who performs duties at the premises of a terminal operator or establishment licensee relating to video gaming terminals or redemption terminals.

58 § 1101a.2

Person—A natural person, corporation, foundation, organization, business trust, estate, limited liability company, trust, partnership, limited liability partnership, association or other form of legal business entity.

Player—An individual who wagers cash or a cash equivalent in the play or operation of a video gaming terminal and the play or operation of which may deliver or entitle the individual playing or operating the video gaming terminal to receive cash or a cash equivalent from a terminal operator licensee.

Principal—An officer, director or person who directly holds a beneficial interest in or ownership of the securities of an applicant or licensee under this part as a terminal operator, manufacturer or supplier or who has a controlling interest in an applicant or licensee as a terminal operator, manufacturer or supplier under this part or has the ability to elect a majority of the board of directors of a terminal operator, manufacturer or supplier licensee or to otherwise control anyone licensed under this part, procurement agent, lender or other licensed financial institution of an applicant or a terminal operator, manufacturer or supplier licensee under this part, 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, underwriter of an applicant or anyone licensed under this part or other person or employee of a terminal operator licensee, manufacturer licensee or supplier licensee deemed to be a principal by the Board, including a procurement agent.

Principal qualifier—Each owner, officer and director of the truck stop establishment, including each individual or owner, officer and director of an entity that leases a truck stop establishment or operates a truck stop establishment pursuant to a management or other agreement who is required to be qualified as part of the truck stop establishment application. For purposes of this definition, an owner is each individual who has a direct or indirect ownership or beneficial interest of 10% or more or an entity who has a direct ownership or beneficial interest of 20% or more in the truck stop establishment or other person as determined by the Board. An officer is a president, chief executive officer, a chief financial officer and a chief operating officer, and any person routinely performing corresponding functions with respect to an organization whether incorporated or unincorporated.

Procurement agent—A person that shares in the gross terminal revenue or is otherwise compensated for the purpose of soliciting or procuring a terminal placement agreement.

Progressive payout—A video game terminal wager payout that increases in a monetary amount based on the amounts wagered in a progressive system.

Progressive system—A computerized system linking video gaming terminals on the premises of an establishment licensee and offering one or more common progressive payouts based on the amounts wagered.

Publicly traded corporation—A person, other than an individual, who:

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

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

(iii) 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 that has become effective under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa).

Redemption terminal—The collective hardware, software, communications technology and other ancillary equipment used to facilitate the payment of cash or a cash equivalent to a player as a result of playing a video gaming terminal.

Registrant—A holder of a nongaming registration under this part.

Security—As defined in the Pennsylvania Securities Act of 1972 (70 P.S. §§ 1-101—1-703.1).

Subsidiary—As defined in section 1103 of the act.

Supplier—A person that sells, leases, offers or otherwise provides, distributes or services any video gaming terminal, redemption terminal or associated equipment to a terminal operator licensee for use or play in this Commonwealth.

Supplier license—A license issued by the Board authorizing a supplier to provide products or services related to video gaming terminals, redemption terminals or associated equipment to terminal operator licensees for use in this Commonwealth for the conduct of video gaming.

Supplier licensee—A person that holds a supplier license.

Terminal operator—A person that owns, services or maintains video gaming terminals for placement and operation on the premises of an establishment licensee.

Terminal operator license—A license issued by the Board authorizing a terminal operator to place and operate video gaming terminals in an establishment licensee's premises under this part.

Terminal operator licensee—A person that holds a terminal operator license.

Terminal placement agreement—The formal written agreement or contract between an applicant for a terminal operator license or terminal operator licensee and an applicant for an establishment license or establishment licensee that establishes the terms and conditions regarding the conduct of video gaming.

Truck stop establishment—A premises that:

(i) Is equipped with diesel islands used for fueling commercial motor vehicles.

(ii) Has sold on average 50,000 gallons of diesel or biodiesel fuel each month for the previous 12 months or is projected to sell an average of 50,000 gallons of diesel or biodiesel fuel each month for the next 12 months.

58 § 1101a.2

(iii) Has at least 20 parking spaces dedicated for commercial motor vehicles as defined in 75 Pa.C.S. § 1603.

(iv) Has a convenience store.

(v) Is situated on a parcel of land of not less than 3 acres that the truck stop establishment owns or leases.

(vi) Is not located on any property owned by the Pennsylvania Turnpike Commission.

Video gaming area—The area of an establishment licensee’s premises where video gaming terminals and redemption terminals are installed for operation and play.

Video gaming employees—The term includes gaming employees, key employees and nonkey employees.

Video gaming terminal—

(i) A mechanical or electrical contrivance, terminal, machine or other device approved by the Board that, upon insertion of cash or cash equivalents, is available to play or operate one or more gambling games, the play of which utilizes a random number generator and:

(A) May award a winning player either a free game or credit that shall only be redeemable for cash or cash equivalents at a redemption terminal.

(B) May utilize video displays.

(C) May use an electronic credit system for receiving wagers and making payouts that are only redeemable at a redemption terminal.

(ii) Associated equipment necessary to conduct the operation of the contrivance, terminal, machine or other device.

(iii) The term does not include a slot machine operated at a licensed facility in accordance with the act or a coin-operated amusement game.

(iv) The term does not include “lottery” as defined in section 302 of the State Lottery Law (72 P.S. § 3761-302).

Cross References

This section cited in 58 Pa. Code § 1103a.2 (relating to establishment principal and key employee qualification); 58 Pa. Code § 1106a.1 (relating to supplier licenses); and 58 Pa. Code § 1107a.1 (relating to manufacturer licenses).

[Next page is 1102.1]

1101a-8