

CHAPTER 1107a. MANUFACTURERS

Sec.
1107a.1. Manufacturer licenses.

Authority

The provisions of this Chapter 1107a added under 4 Pa.C.S. §§ 3301(a) and (b)(30) and 3302, unless otherwise noted.

Source

The provisions of this Chapter 1107a added August 20, 2021, effective August 21, 2021, 51 Pa.B. 5207, unless otherwise noted.

§ 1107a.1. Manufacturer licenses.

(a) *Application for licensure.* A manufacturer as defined in this subpart who seeks to manufacture video gaming terminals, redemption terminals and associated equipment for use in this Commonwealth shall apply for licensure in accordance with §§ 427a.1 and 427a.2 (relating to manufacturer general requirements; and manufacturer license applications and standards).

(1) A manufacturer filing an application for licensure under this chapter shall not be required to file a diversity plan as set forth in § 427a.2(a)(3).

(b) *Submittals.* In addition to the information submitted under § 427a.2 an applicant shall include all of the following:

(1) The name and business address of the applicant and the applicant's affiliates, intermediaries, subsidiaries and holding companies, the principals and key employees of each business, and a list of employees and their positions within each business, as well as financial information required by the Board.

(2) A statement that the applicant and each affiliate, intermediary, subsidiary or holding company of the applicant are not terminal operator licensees or establishment licensees.

(3) The consent to a background investigation by the Bureau of the applicant, its principals and key employees or other persons required by the Board and a release to obtain the information necessary for the completion of the background investigation.

(4) The details of any equivalent manufacturer license granted or denied by other jurisdictions where gaming activities similar to those authorized by this part are permitted.

(5) The details of any manufacturer license issued by the Board to the applicant under section 1317.1 of the act (relating to manufacturer licenses) or details of any application for a manufacturer license that was denied by the Board, if applicable.

(6) The type of video gaming terminals, redemption terminals or associated equipment to be manufactured or repaired.

1107a-1

- (7) Other information determined by the Board or the Bureau to be appropriate.
- (c) *Approval and issuance of license.* Upon being satisfied that the requirements in subsections (a) and (b) have been met, the Board may approve the application and issue the applicant a manufacturer license consistent with all of the following:
- (1) A licensee shall have an affirmative duty to notify the Board of a change relating to the status of its license or to information in the application materials on file with the Board.
 - (2) The license shall be nontransferable.
 - (3) Other conditions established by the Board.
- (d) *Considerations.* In determining whether an applicant is suitable to be licensed as a manufacturer under this section, the Board will consider all of the following:
- (1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.
 - (2) If all principals and key employees of the applicant are eligible and suitable for licensure.
 - (3) The integrity of financial backers.
 - (4) The suitability of the applicant and principals and key employees of the applicant based on the satisfactory results of:
 - (i) A background investigation of principals and key employees.
 - (ii) A current tax clearance 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.
- (e) *Submittal of agreements.* A manufacturer shall submit to the Bureau of Licensing for review any agreements with a licensed supplier, terminal operator or establishment licensee. The review may include 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 manufacturer from any licensed supplier, terminal operator or establishment licensee.
- (f) *Occupation permit or nongaming registration.* An employee of a manufacturer licensee who is a gaming employee or nongaming employee as defined in § 1101a.2 (relating to definitions) shall obtain an occupation permit under § 1109a.1 (relating to gaming employee occupation permits) or a nongaming registration under § 1109a.2 (relating to nongaming employee registrations).
- (g) *Change of control of a manufacturer licensee.*
- (1) For purposes of this subsection, a change of control of a manufacturer licensee will be deemed to have occurred when a person or group of persons acquires:

(i) More than 20% of a manufacturer licensee's securities, assets or other ownership interests.

(ii) More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the manufacturer licensee.

(iii) Any other interest in a manufacturer licensee which allows the acquirer to control the manufacturer licensee.

(2) A manufacturer licensee shall notify the Bureau and the Bureau of Licensing in a manner prescribed by the Bureau of Licensing immediately upon becoming aware of any proposed or contemplated change of control of the manufacturer licensee.

(3) Prior to acquiring a controlling interest in a manufacturer licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include all of the following:

(i) A copy of all documents governing the acquisition.

(ii) Completed applications for the acquiring company, as required under this chapter, principals as required under Chapter 433a (relating to principal licenses) and key employees as required under § 435a.2 (relating to key employee license).

(iii) An affirmation that neither the acquirer nor any of its affiliates, intermediaries, subsidiaries or holding companies is a terminal operator licensee or establishment licensee and that the acquirer has neither applied for nor holds a terminal operator license or establishment license.

(4) A person or group of persons seeking to acquire a controlling interest in a manufacturer licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (a).

(5) A person or group of persons may not acquire a controlling interest in a manufacturer licensee until the petition required under subsection (g) has been approved. A person or group of persons seeking to acquire a controlling interest in a manufacturer licensee and the manufacturer licensee may enter into an agreement of sale that is contingent on Board approval of the petition.

(6) The requirements in this section do not apply to the acquisition of a controlling interest in a manufacturer licensee when all of the following conditions are met:

(i) The acquirer is an existing licensed manufacturer licensee.

(ii) The existing licensed manufacturer licensee has provided the Bureau and the Bureau of Licensing notification and a copy of all documents governing the acquisition at least 60 days prior to the acquisition.

(iii) After reviewing the documentation, the Bureau and the Bureau of Licensing determine that the filing of a petition is not required.

[Next page is 1108-1.]

1107a-4

(405954) No. 564 Nov. 21

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