

HOUSE OF REPRESENTATIVES

DEMOCRATIC COMMITTEE BILL ANALYSIS

Bill No: HB1098 PN2639
Committee: Gaming Oversight
Sponsor: Payne, John D.
Date: 2013-11-13

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A. Brief Concept

Makes specific changes to the Local Option Small Games of Chance Act by permitting non-profit organizations affiliated with professional sports teams and racetracks to conduct 50/50 raffles, updating certain reporting requirements and the distribution of proceeds for club licensees, and allowing for bars and restaurants to conduct tavern games.

B. Analysis of the Bill

Earlier this year, House Bill 1098 was amended by the Senate Community, Economic, and Recreational Development Committee with a gut and replace amendment.

On Oct. 22, 2013, the Senate Rules Committee adopted an amendment to reflect the "negotiations" on the bill.

On Nov. 12, 2013, the House Rules Committee further amended the bill to reflect additional changes.

The proposal is significantly different from the proposal originally passed by the House on May 15, 2013.

This summary reflects the most recent changes to the bill.

Changes to non-profit organizations:

Major League Sports 50/50 raffles:

As amended by the Senate, House Bill 1098 would allow for non-profit organizations affiliated with all professional sports teams, as well as racing facilities in the Commonwealth, who have a "home" field or racing stadium, grandstand or bleacher at a closed course motor facility, to hold charity 50/50 raffles at home games. The racing facilities must be a facility where spectators are directly observing motor races with NASCAR, Indy, stock or drag racing cars.

The Senate version of the bill also allows Major League Sports drawings to be conducted by the affiliated nonprofit organization during a charitable event held at the same "home" field or racing facility of the major league sports team.

In addition, the Senate version would cap the expenses for affiliated nonprofit associations in conducting the drawing, such as to employ sellers of the tickets, administrative expenses, etc., at 2% of the total amount collected.

Club licensees:

Currently, as amended by the House Rules Committee, the bill would change the reporting requirement for club licensees, organization with liquor licenses, by stating that a club licensee that has

proceeds under **\$20,000** would be exempt from submitting an annual report.

These club licensees would also be exempt from submitting background checks with their Small Games of Chance application.

The amended version of the bill would also allow a club licensee's proceeds from games of chance to be subject to a 60/40 distribution restriction -- where at least 60 percent of proceeds must go to public interest purposes, and no more than 40 percent of the proceeds can be used for operating expenses.

The latest version of the bill deletes the itemized list of what constitutes "operational expenses" and removes the prohibition against using proceeds to purchase alcohol or food, or to pay the wages of employees of the club licensee. Also, the bill would now permit club licensees to donate proceeds to individuals, not just organizations, to satisfy their public interest purpose.

The latest version of the bill also exempts the first **\$20,000 of proceeds collected by club licensees with \$40,000 or less in annual proceeds from the 60/40 distribution split.**

The distribution of funds for public interest purposes would have to be paid out within one year of the end of the calendar year in which the proceeds were obtained.

In addition, the bill repeals the provision of the Act that states that a club licensee shall maintain records relating to the printing or purchase of raffles tickets.

The bill would require the Department of Revenue to conduct random audits of 5% of all club licensees.

The addition of for-profit entities to operate tavern gaming:

The bill amends the legislative intent section of the Act to say that raising public funds from games of chance in licensed restaurants and protecting the competitiveness of these restaurants is in the public interest.

The current version of the bill provides for a new chapter in the Local Option Small Games of Chance Act that would allow for profit entities to operate tavern games -- termed "restaurant licensee." A restaurant licensee is defined as a "for-profit hotel, restaurant, privately owned public golf course, brew pub or micro brewery licensed to sell liquor under the Liquor Code. Tavern games would include pull-tab games, tavern daily drawings or tavern raffles.

The bill would exempt grocery stores, including those who have an interior connection to a restaurant, and premises where the sale of liquid fuels or oil (gas stations) is conducted from being considered as a restaurant licensee. However, there is question on whether or not the definition excludes gas stations with restaurants on its premises.

Also, the bill provides for a definition of "tavern," that conflicts with the definition provided for "restaurant licensee."

Tavern Gaming Licensing and Application:

The bill would require a restaurant licensee to submit an application to the Pennsylvania Liquor Control Board. The Board would have six months from the date the application is received to approve or disapprove the application.

During the application process, the Bureau of Investigations and Enforcement of the Pennsylvania Gaming Control Board, in conjunction with Pennsylvania Liquor Control Board, would require consent from the applicant and would then conduct a background investigation. The Bureau would then make a recommendation to the Board based on the outcome of the investigation. The costs of the background check would be covered by the applicant. Also, during this process, the applicant would be required to

disclose all arrests and citations, including non-traffic summary offenses.

The bill would require an application fee of \$1,000, with an additional \$1,000 investigative fee and a license fee of \$2,000 and yearly renewal fee of \$1,000, if and when the application is approved.

The current version of the bill, applicants would be required to submit information relating to citations and conditional license agreements issued under the Liquor Code to the LCB.

The bill would prohibit the transfer of a tavern games license if there was a change in ownership of the premises of the restaurant license. The new owners would be required to independently apply and qualify for a license, pay the license fee and undergo and pay for a background investigation.

The bill also would allow the LCB to disapprove the issuance or renewal of a tavern gaming license if the restaurant licensee's liquor license is in safekeeping, subject to pending objection, pending license suspension, or on a one-year prohibition on the issuance or transfer of the license.

Tavern Gaming Prize Limits and Bank Account:

The bill would set the maximum individual prize limit for any single chance at \$2,000. Also, no more than \$35,000 in prizes may be awarded per week.

Also, the bill would require that a licensee maintain a separate bank account to hold the net revenues of tavern games separate from all other funds. Bank account records would be required to show all expenditures and income and shall be retained for at least two years.

Tavern Games:

The bill would allow for licensees to offer "tavern games" -- which includes pulltabs, daily drawings and tavern raffles. Except for tavern raffles, the proceeds from tavern games would be subject to a 60/40 split -- where 60 percent of the net revenues obtained in a year would be paid to the Commonwealth and 40 percent retained by the licensee.

Tavern Raffle:

Under the proposal, a licensee would be able to offer one "tavern raffle" per month. These raffles would be designated for a dedicated and advertised charitable purpose. Within seven days of the raffle, at least 50 percent of the net revenues must be given to the advertised designated charity. The other 50 percent would then be subject to the 60/40 split assessed to all other "tavern games" -- where 60 percent would be paid to the Commonwealth, and 40 percent retained by the licensee.

Any tavern raffle prize remaining unclaimed after 60 days would be required to be donated by the licensee to the designated charitable organization for which the raffle was held.

Tavern Games Tax:

The current version of the bill would provide for a "tavern games tax" -- which would be 60 percent of the net revenue from tavern games sold by a licensed distributor.

Net revenue is defined in the bill as the difference between the face value, as indicated by the manufacturer, collectible by a licensee from a tavern game and the maximum amount of prizes payable, as indicated by the manufacturer, by a licensee from a tavern game.

For games not required to be purchases from a licensed distributor, for instance raffles and daily drawings, a tax of 60 percent would be imposed upon the net revenue and would be required to be paid to the state by the licensee.

A licensee or licensed distributor subject to the tavern game tax would be required to file with the department of revenue a tavern game tax return. Payment of the tax calculated would be required to be paid when the tavern games tax return is made.

The bill provide penalties for failure to pay the required tavern games tax.

The total amount of taxes imposed by the tavern game tax would be deposited into the General Fund.

In addition, a 5 percent host municipality tavern games tax would be applied to licensed distributors and licensees. This tax would be remitted to municipalities that host tavern gaming.

Reports and Enforcement:

The bill would provide that a licensee shall submit annual reports to the Department of Revenue for the prior year on a form designated by the Department.

Also, the Board may suspend or revoke a license following a notice and hearing, as well as impose a civil penalty for violation under this chapter; up to \$2,000 for the first violation, \$3,000 for a second violation and up to \$5,000 for a third violation.

The bill also provides for criminal penalties, which would be a misdemeanor of the third degree for a first offense, and a misdemeanor of the second degree for a second or subsequent violation. Also an Administrative Law Judge under the Liquor Code, may impose the penalties under this proposal following the issuance of a citation by the Bureau of Liquor Control Enforcement.

The bill also prohibits restaurant licensees who are part of a casino, or part of a major league sports team facility, from obtaining a tavern games license. Also, establishments that have been decreed as nuisances pursuant to the Liquor Code, would also be prohibited from receiving a tavern games license.

State Lottery:

The bill would require the Legislative Budget and Finance Committee, starting in 2016 and each year thereafter, to study the impacts of tavern gaming on the State Lottery. Pending the results of these studies, the Governor may request the General Assembly to transfer money from the General Fund to the State Lottery Fund up to the amount identified in the study.

Effective Date:

The provisions of this bill relating to major league sports drawings, major league sports teams and charitable events would take effect immediately.

The remainder of the act would take effect in 60 days.

C. Relevant Existing Law

Act 2 of 2012 and Act 184 of 2012 made significant changes to the Local Option Small Games of Chance Act by increasing prize limits for games of chance, allowing certain organizations to use proceeds from games of chance for specified purposes, and enhancing reporting requirements and enforcement of the Act.

D. Prior Session (Previous Bill Numbers & House/Senate Votes)

Last session, House Bill 169 (Act 2) -- voted 178-10 on final passage in the House and 44-6 in the Senate and Senate Bill 444 (Act 184) -- voted on final passage in the House 182-12 and 46-3 in the Senate. This session, House Bill 290 -- voted 186-10 on final passage in the House. The bill was referred

to Senate Community, Economic & Recreational Development committee on March 8th, 2013. It was reported as amended on June 19th, 2013 by a vote of 13-1. Currently, it is in the Senate Appropriations Committee before being voted on 3rd consideration by the Senate.

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