



PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

November 3, 2017

Dear Township Official:

Act 42 of 2017 authorizes the placement of ten Category 4 casinos within the Commonwealth. A Category 4 casino is a “mini-casino” with not less than 300 or more than 750 slot machines and table games. These ten facilities will be owned and operated by those currently possessing a Category 1, 2, or 3 casino license that was issued by the Commonwealth. Under Act 42 a host municipality, which is defined as a city, borough or township, would receive 50% of the 4% local assessment fee paid by the Category 4 casino. However, the most the host municipality could receive in any one year would be 50% of its 2016-17 budget, as modified annually for inflation by a cost-of-living adjustment.

Act 42 also grants municipalities the authority to prohibit the location of a Category 4 casino within the boundaries of the municipality. To do so, the governing body of a municipality must pass a resolution indicating its desire to prohibit Category 4 casinos within the municipality. *This resolution needs to be passed and delivered to the PA Gaming Control Board no later than December 31, 2017.* Any action taken after December 31, 2017 to prohibit Category 4 casinos will be null and void, and the municipality will no longer have the authority to prohibit the location of a Category 4 casino within its boundaries.

Municipalities that pass a resolution to prohibit a Category 4 casino may, in the future, pass another resolution to rescind the prohibition. As with the passage of the original resolution, this resolution must be sent to the PA Gaming Control Board. If a municipality passes the resolution to rescind the original resolution, it no longer has the authority to prohibit Category 4 casinos in the future.

Attached to this notice is a sample resolution for your review should the township desire to prohibit Category 4 casinos within the boundaries of the township.

Should you have any questions, please contact PSATS.

Sincerely,

David M. Sanko
Executive Director

Attachment

4855 Woodland Drive ■ Enola, PA 17025-1291 ■ Internet: www.psats.org

PSATS ■ Pennsylvania Township News ■ Telephone: (717) 763-0930 ■ Fax: (717) 763-9732

Trustees Insurance Fund ■ Unemployment Compensation Group Trust ■ Telephone: (800) 382-1268 ■ Fax: (717) 730-0209

_____ TOWNSHIP
_____ COUNTY, PENNSYLVANIA
RESOLUTION NO. 2017 - ____

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF _____ TOWNSHIP,
_____ COUNTY, PENNSYLVANIA PROHIBITING THE LOCATION OF A
CATEGORY 4 LICENSED FACILITY WITHIN THE TOWNSHIP.**

WHEREAS, Act 42 of 2017 authorizes the licensing of ten (10) Category 4 casinos within the Commonwealth; and

WHEREAS, these Category 4 casinos will be “mini-casinos” licensed to those that operate a Category 1, 2, or 3 casino within the Commonwealth; and

WHEREAS, Act 42 of 2017 {§ 1305.1 (A.1) (1)} gives all municipalities within the Commonwealth the option to prohibit the location of a Category 4 facility within their municipal boundaries; and

WHEREAS, a resolution to prohibit the location of a Category 4 facility within the municipal boundaries must to be passed by the governing body of the municipality and delivered to the Pennsylvania Gaming Control Board no later than December 31, 2017.

NOW THEREFORE, BE IT HEREBY RESOLVED that the Board of Supervisors of _____ Township, _____ County, Pennsylvania, adopts this resolution in accordance with § 1305.1 (A.1) (1) of Act 42 of 2017 to prohibit the placement and operation of a Category 4 licensed facility with the boundaries of _____ Township.

AND, FURTHER, that a copy of this resolution shall be delivered to the Pennsylvania Gaming Control Board no later than December 31, 2017.

RESOLVED AND ADOPTED at a duly advertised public meeting on this ____ day of _____ 2017.

From the PA Gaming Control Board: Municipal Option To Prohibit Siting of Category 4 Casino

Resolutions passed by the Board of Supervisors to prohibit a Category 4 casino shall be delivered no later than December 31, 2017 to:

Pamela Lewis, Board Secretary
Pennsylvania Gaming Control Board
303 Walnut Street
Commonwealth Tower, 5th Floor
Harrisburg, PA 17101

FOR IMMEDIATE RELEASE

November 2nd, 2017

COMMONWEALTH OF PENNSYLVANIA

Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106-9060

**Notice From the PA Gaming Control Board: Municipal Option
To Prohibit Siting of Category 4 Casino**

HARRISBURG, PA: On October 30, 2017, Governor Wolf signed into law House Bill 271 which amends the Pennsylvania Race Horse Development and Gaming Act (“Act”), 4 Pa.C.S. §§1101 et seq., and authorizes a number of gambling expansion opportunities throughout the Commonwealth.

One such opportunity is found in the creation of up to ten (10) Category 4 slot machine licenses which would likely, but not necessarily, be owned and operated by existing Pennsylvania licensed casino operators which already have other gaming properties in the Commonwealth. Under the expansion language, each Category 4 casino could operate between 300 and 750 slot machines and eventually up to 40 table games. No Category 4 location could be located within 25 linear miles of an existing Category 1, 2 or 3 casino facility.

Section 1305.1 (A.1) of the Act is entitled “Municipal Option” and provides municipalities the option to prohibit, or opt-out of, the siting of a Category 4 facility within that municipality.¹ As referenced, Title 4, Section 1103 defines a “Municipality” as “a city, borough, incorporated town or township.” If a municipality wishes to exercise this option and prohibit a Category 4 casino from being placed in the municipality, the governing body of the municipality must deliver a resolution exercising this power to the Board no later than December 31, 2017.

In order to facilitate this process, if a municipality desires to avail itself of the municipal option regarding Category 4 casinos, the Pennsylvania Gaming Control Board provides the following guidance:

- First, the governing body of the municipality should officially adopt the Resolution at a public meeting consistent with the requirements of Pennsylvania’s Sunshine Act, 65 Pa.C.S. §701 et seq., after October 31, 2017.
- Then, an official copy of the Resolution should be delivered no later than December 31, 2017 to:

Pamela Lewis, Board Secretary

Pennsylvania Gaming Control Board

303 Walnut Street

Commonwealth Tower, 5th Floor

Harrisburg, PA 17101

pamelewis@pa.gov

The Board also recommends that each municipal governing body consult their solicitor in the development of the resolution which, at minimum, should include the following information:

- Reference to the power granted under Section 1305.1 and the municipality's decision to exercise the power to opt-out;
- The date that the governing body adopted the resolution; and
- The inclusion of signatures or seal necessary to establish that the resolution was officially adopted.

[1] The specific text of the statute is as follows:

§1305.1 (A.1) MUNICIPAL OPTION.

(1) PRIOR TO THE COMMENCEMENT OF AN AUCTION UNDER SECTION 1305.2, EACH MUNICIPALITY SHALL HAVE THE **OPTION TO PROHIBIT THE LOCATION OF A CATEGORY 4 LICENSED FACILITY WITHIN THE MUNICIPALITY BY DELIVERING A RESOLUTION OF THE MUNICIPALITY'S GOVERNING BODY TO THE BOARD NO LATER THAN DECEMBER 31, 2017**. NO CATEGORY 4 LICENSED FACILITY MAY BE LOCATED IN A MUNICIPALITY WHICH HAS EXERCISED ITS OPTION UNDER THIS PARAGRAPH.

(2) A MUNICIPALITY THAT PROHIBITS THE LOCATION OF A CATEGORY 4 LICENSED FACILITY WITHIN THE MUNICIPALITY UNDER SUBSECTION (A) **MAY RESCIND THAT PROHIBITION AT ANY TIME BY DELIVERING A NEW RESOLUTION OF THE MUNICIPALITY'S GOVERNING BODY TO THE BOARD. A MUNICIPALITY THAT RESCINDS ITS PRIOR PROHIBITION ACCORDING TO THIS SUBSECTION MAY NOT SUBSEQUENTLY PROHIBIT THE LOCATION OF A CATEGORY 4 LICENSED FACILITY IN THE MUNICIPALITY.**



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 271

PRINTERS NO. 2652

PRIME SPONSOR: Ortitay

REVENUE INCREASE / (DECREASE)

FUND	FY 2017/18	FY 2018/19
General Fund	See Fiscal Impact	See Fiscal Impact
State Lottery Fund	See Fiscal Impact	See Fiscal Impact
Other Special Funds of the Commonwealth	See Fiscal Impact	See Fiscal Impact
Local Share Accounts	See Fiscal Impact	See Fiscal Impact

SUMMARY: House Bill 271, Printer's Number 2652, amends Title 3 (Agriculture) providing for race horse industry reform and amends Title 4 (Amusements) extensively revising gaming provisions providing for fantasy contests; for lottery; for iLottery; for interactive gaming; for multi-use devices at qualified airports; for sports wagering; for casino simulcasting; and for video gaming; further providing for general provisions of gaming and the Pennsylvania Gaming Control Board; for licensees; for revenues; table games; administration, enforcement and miscellaneous provisions; and making related repeals.

ANALYSIS: This legislation makes various changes to Title 3 and Title 4 of the Pennsylvania Consolidated Statutes by expanding, enhancing and providing for the oversight and regulation of the gaming industry in the Commonwealth as well as providing for local share assessments, distributions and transfers of gaming revenues. More specific details on the changes included in the legislation and the fiscal impact of each provision are provided below:

Title 3 (Agriculture)

Repeals language providing that a licensed racing entity or secondary pari-mutuel organization may not accept a wager or establish electronic wagering or advanced deposit account wagering for any person located in the primary market area of a racetrack, other than the racetrack at which the licensed racing entity is conducting a horse race meeting.

The electronic wagering license fee is reduced from \$500,000 to \$50,000 and the renewal fee for an electronic wagering license is reduced from \$100,000 to \$10,000. These fees are deposited into the State Racing Fund.

Fantasy Contests – (Chapter 3)

Fantasy contest license applications shall be submitted to the board for providing online fantasy or simulated games or contests with an entry fee and a prize or award offered to winning participants. No winning or outcome shall be based on the score, point spread or performance of a single actual team or combination of teams or solely on a single performance of an individual athlete or player in a single actual event. A nonrefundable application fee shall be paid which may not exceed the amount necessary to reimburse the board for all costs incurred in the application process.

The fee for a fantasy contest license issued by the board is \$50,000 which shall be deposited into the General Fund. Such license shall be valid for 5 years. The renewal fee is \$10,000 and shall be deposited into the General Fund.

Each fantasy contest licensee shall file a monthly report with the department and pay a tax equal to 15% of its fantasy contest adjusted revenue for the previous month. All taxes owed shall be held in trust for the Commonwealth until paid to the department. Taxes paid to the department shall be deposited into the General Fund. Each year from the tax imposed, the amount of 0.002 multiplied by the total fantasy contest adjusted revenue shall be transferred to the Department of Drug and Alcohol Programs for treatment for drug and alcohol addiction and compulsive and problem gambling.

The department shall assess each licensed operator a percentage of its fantasy operator's contest adjusted revenues which shall be used to recover costs or expenses incurred by the board and the department in carrying out the duties and responsibilities under this chapter as well as repay the loans made by the General Fund to begin implementing the chapter.

The Fantasy Sports Report published by the board in May 2016 indicated that the arena of fantasy sports is rapidly expanding and estimates that more than \$3 billion in entry fees from approximately 4.5 million players were paid in 2015 alone which generated revenue of \$300 million for the industry after the payout of winnings. Historically, Pennsylvania's population represents 4% of the United States population. Using this as a proxy, it is estimated that a fantasy contest tax of 15% would generate \$2,100,000 annually for the General Fund. For purposes of this analysis it is assumed that 5 entities will operate fantasy contests in PA. In 2017-18, it is estimated that \$250,000 in license fees will be deposited in the General Fund as well as \$525,000 in tax revenues assuming that licensees begin operating by March 1, 2018, resulting in 3 months of tax revenue collections. These monies are to be deposited into the General Fund and a total of \$7,000 shall be transferred to Drug and Alcohol Programs. In 2018-19 it is estimated that \$2.1 million in tax revenues will be collected and a total of \$28,000 will be transferred to Drug and Alcohol Programs.

Lottery (Chapter 5)

Establishes the Lottery Sales Advisory Council comprised of the Secretary of Revenue, Director of the Division of the State Lottery, a representative from the Department of Aging, a representative from the Statewide Food Merchants Association, licensed lottery sales agents and any other individual at the discretion of the department. The Council shall operate in an advisory, nonbinding capacity with the purpose of increasing the partnership between the State Lottery and licensed lottery sales agents and develop policy recommendations for increased lottery sales.

The department shall establish a Retail Incentive Program to reward lottery sales agents that engage in department-recommended best practices resulting in increased lottery sales at the agent's location. This program shall be funded with 0.5% of the sale of traditional lottery products at lottery sales agents' physical lottery sales locations within the prior fiscal year. Participation in the program shall be voluntary for lottery sales agents. These funds shall not be counted toward the profit margin limitations.

iLottery

This legislation authorizes the Department of Revenue to operate iLottery and Internet instant games. iLottery and Internet instant games are lottery games of chance in which, by the use of a computer, tablet computer, other mobile device or other web or mobile applications a player purchases a lottery play that reveals numbers, letters or symbols indicating whether a lottery prize has been won. All revenues from the sales of iLottery will be deposited into the State Lottery Fund. The Department of Revenue estimated iLottery sales to be \$86.3 million which would generate \$19 million in profits for the Lottery Fund based on an October 1, 2017, launch date. It is anticipated that \$10,000,000 will be generated for the Lottery Fund in 2017-18.

Category 3 Licenses

This legislation removes the amenity requirement on Category 3 licensees for a one-time nonrefundable fee of \$1 million. A one-time fee of \$2.5 million is required for a Category 3 licensee to add up to 250 slot machines and a one-time fee of \$1.0 million is required to add up to 15 gaming tables. Finally, the legislation provides that the board may issue no more than two Category 3 licenses, eliminating the ability of the board to issue a third license.

This provision will generate an additional \$9 million in 2017-18 assuming the two currently operating Category 3 facilities apply for additional slot machines and gaming tables. These license fees are deposited into the General Fund

Category 4 Licenses

The board is required to establish a system to auction 10 Category 4 licenses. Only Category 1 and Category 2 licensees may participate in the initial auction with the highest bidder getting exclusive rights to place a Category 4 casino in a location of its choice which cannot be located within 25 linear miles of another Category 1, 2 or 3 casino and cannot be located in Pike, Wayne, Fayette or Montgomery counties. The minimum bid is \$7.5 million.

Once a Category 1 or 2 licensee is a successful bidder, it cannot bid in the remaining auctions. If all category 4 licenses are not auctioned to Category 1 or 2 licensees, the remaining Category 4 licenses will be first opened to auctions from current Category 3 licensees. Any remaining Category 4 licenses will then be open auctions to any person that meets the board's requirements for casino ownership.

Category 4 casinos may have no less than 300 slot machines and no more than 750 slot machines. Such machines are counted toward the total complement of slot machines permitted by the category 1 or 2 casino. If a category 3 casino successfully bids on a Category 4 license, it must pay an additional fee equal to \$10,000 per machine at the Category 4 location.

Category 4 casinos may operate up to 30 tables upon payment of an additional \$2.5 million fee. After operating for a year, a Category 4 may petition for 10 additional tables.

The tax rate on slot machines shall be 50% with 34% going to the Property Tax Relief Fund; 5% to CFA for grants in any county; 5% to host counties that have a decrease in local share due to category 4 licensees; and 6% to the Gaming Economic Development Tourism Fund. A local share assessment shall be 4% with 2% to the CFA for grants to the host county and 2% to the host municipality.

The tax rate on Table games shall be 14% and deposited into the General Fund. A local share assessment shall be 2% with 1% to the CFA for grants to the host county and 1% to the host municipality.

Assuming all 10 Category 4 casinos are auctioned for the minimum fee of \$7.5 million and all 10 operate up to 30 table games for the fee of \$2.5 million this will generate \$100 million in license fee revenue for the General Fund in 2017-18.

Slot Machine License Operation Fee

This legislation imposes an annual slot machine license operation fee on all Category 1 and 2 licensed gaming entities in the amount of 20% of the entity's slot machine license fee paid at issuance (\$50 million). The fee will generate \$10 million annually from each licensed entity. Fees collected are deposited into the State Gaming Fund to be used for purposes of local share distributions. Changes are made to various local share assessment distributions to counties and municipalities. These changes will have no impact on Commonwealth funds.

Interactive Gaming (Chapter 13B) and Multi-Use Computing Devices (Subchapter B.1)

Slot machine licensees are authorized to conduct interactive gaming consisting of peer-to-peer games (poker), non-peer-to-peer games simulating table games and non-peer-to-peer games simulating slot machines. There is a one-time nonrefundable fee of \$10 million for conducting interactive gaming if paid within 90 days. If after 90 days and up to 120 days, the fee is \$4 million per category of game. If more than 120 days, the fee is \$4 million per category of game for qualified gaming entities. Licensees may contract with an interactive gaming operator. There is a one-time nonrefundable fee of \$1 million for each operator.

An operator may also conduct interactive gaming at a qualified airport. The one-time nonrefundable fee is \$2.5 million for Philadelphia; \$1.25 million for Pittsburgh; \$500,000 for all other international airports; and \$125,000 for all other airports that are not designated an international airport.

The tax rate on interactive gaming is 52% of the daily gross interactive gaming revenue for simulating slot machines and 14% of the daily gross interactive gaming revenue for simulating table games and poker. Additionally, a 2% local share assessment is applied to the daily gross interactive gaming revenue with 1% to the host county (Philadelphia goes to school district) and 1% to CFA for grants to any county. The tax rate for airport gaming is the same as the interactive gaming. Airport local share assessment is 2% with 1% to the CFA for grants within the airport host county or counties (Philadelphia 0.5% to the school district and 0.5% to the CFA for grants within Delaware County) and 1% to CFA for grants available to every county.

The authorization of interactive gaming will result in \$100 million in license fees in 2017-18 assuming all current slots licensees conduct interactive gaming. Furthermore, assuming each licensee contracts with one operator, this will result in \$10 million in operator license fees in 2017-18. Finally, it is estimated that a total of \$5.75 million will be generated in license fees for authorized airport gaming.

Sports Wagering (Chapter 13C)

The board is given the authority to establish standards and procedures to govern sports wagering in the Commonwealth in the event that sports wagering is authorized under Federal law. The Secretary of the Commonwealth shall publish notice in the Pennsylvania Bulletin certifying the enactment or filing of a court decision that affirms the authority of a state to regulate sports wagering. A licensed casino would be able to apply for a sports wagering license to conduct sports wagering at the casino, a nonprimary location or online. A sports wagering license fee is \$10 million with a renewal fee of \$250,000. The tax rate is 34% with a local share of 2%, 1% to the host county and 1% to the host municipality. All fees and taxes would be deposited into the General Fund.

Casino Simulcasting (Chapter 13F)

This legislation authorizes Category 2, Category 3 and Category 4 licensed facilities to conduct casino simulcasting or enter into an agreement or agreements with a licensed racing entity or other person for the conduct of casino simulcasting. Casino simulcasting permits shall not be subject to the payment of an authorization fee, renewal fee or an additional permit fee.

Casino Loan Repayments

The board shall establish a schedule for repayment of the \$36.1 million in loans which were provided as start-up costs with the enactment of Act 71 of 2004. The loan shall be repaid by June 30, 2019. All loan repayments shall be deposited into the General Fund. It is estimated that the General Fund will receive repayments totaling \$12 million in 2017-18.

Video Gaming (VGT's)

This legislation permits up to 5 VGT's on the premises of truck stops. Counties hosting a category 1, 2 or 3 casino have 60 days to opt out and therefore no VGT's would be allowed to be placed in that county. Manufacturer license application fees are \$50,000. Terminal Operator license application fees are \$10,000. Establishment application fees are \$1,000. There is an application fee of \$500 per key employee or principal. Initial license fees and renewal fees are \$10,000 for a manufacturer or supplier; \$5,000 for a terminal operator; \$250 per VGT per establishment; and \$500 per key employee, procurement agent or principal.

The tax rate on VGT's is 42% of gross revenue which will be deposited into the Video Gaming Fund. On June 30, 2018, 0.002 of the total gross terminal revenue shall be transferred from the Video Gaming Fund to the Compulsive and Problem Gambling Treatment Fund and the remainder in the Video Gaming Fund shall be transferred to the General Fund.

A 10% local share assessment is imposed and shall be available through the CFA for grants to any county. The establishment shall receive 15% of the gross revenue.

It is anticipated that \$1 million in application fees and license fees shall be deposited into the General Fund in 2017-18.

FISCAL IMPACT: It is estimated that \$238,518,000 of application fees and license fees will be deposited into the General Fund in 2017-18. The amount of tax revenues to be generated in 2018-19 will depend on the length of time for the licensees to commence operations.

The department estimates the iLottery will generate \$25,000,000 annually for the Lottery Fund. It is anticipated that \$10,000,000 will be generated for the Lottery Fund in 2017-18.

PREPARED BY: Ritchie LaFaver
House Appropriations Committee (R)

DATE: October 25, 2017

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.