

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 405, 441 AND 443]

Final Temporary Regulations; Category 2 and 3 Slot Machine Licenses

The Pennsylvania Gaming Control Board (Board), under the authority of 4 Pa.C.S. § 1202(b)(14) (relating to general and specific powers), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapter 405, entitled Bureau of Investigations and Enforcement, is added to Subpart A, General Provisions. Sections 441.13 and 441.14, entitled notification of anticipated or actual changes in key employee qualifiers or key employees and notification of new financial sources, are added to Chapter 441, Slot Machine Licenses, of Subpart C, entitled Slot Machine Licensing. Sections 443.4 and 443.5, entitled Category 2 slot machine licenses and Category 3 slot machine licenses are added to Chapter 443, Categories of Licensure, of Subpart C, entitled Slot Machine Licensing.

Purpose and Background

Under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board is required to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment in this Commonwealth and to carry out the policy and purposes of the Board. In adopting these temporary regulations, the Board has considered the public comments submitted to the Board, including comments from various State agencies, legislators and other interested parties. The Board has also reviewed the regulatory practices of other Commonwealth agencies and other gaming jurisdictions.

To promulgate the temporary regulations in accordance with customary rulemaking procedure, the Board published draft regulations at 35 Pa.B. 4699 (August 13, 2005). A 30-day public comment period was provided.

Under 4 Pa.C.S. § 1203, the temporary regulations adopted by the Board will expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1205), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Comment

The Board received public comment from approximately 12 interested parties, including State and local government officials, industry representatives and citizens. The Board thoroughly reviewed and considered all comments submitted. All public comments received by the Board are available for review on the Board's website, www.pgcb.state.pa.us. To respond to the comments in the most efficient manner, the Board has selected representative comments and formulated responses to these comments. These comments and responses are published on the Board's website.

Paperwork

The Board will be publishing Category 2 and Category 3 applications and other necessary forms for the administration of licensing Category 2 and Category 3 slot machine licensees. The Board is developing a docket process to monitor and track submitted applications.

The Board will publish notices in the *Pennsylvania Bulletin* identifying the filing period for applications, the completion date and those facilities who have been awarded licenses by the Board.

Financial Impact

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities.

The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed gaming entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the gaming fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees will reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing and registration of individuals and other classes of licensees will be reimbursed by the individuals and or licensees through fees established by the Board.

It is anticipated that all expenses of the Board and all associated activities will be reimbursed by the applicants and gaming entities as previously specified. The Board will have no financial impact on the State budget.

Statutory Authority

Section 1203 of 4 Pa.C.S. provides the Board authority to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203, the Board may adopt temporary regulations that are exempted from the Regulatory Review Act and sections 201—205 of the CDL. Section 1203 of 4 Pa.C.S. provides that the Board's authority to adopt regulations will expire 2 years from the effective date of 4 Pa.C.S. Part II.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203, the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 30-day public comment period was held prior to the adoption of the temporary regulations. All comments received by the Board were reviewed and considered.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

The Board, acting under the authorizing statute, orders that:

(a) The Board acting under the authority of the Act 71, adopts as its final-form temporary regulations, the draft regulations adopted by resolution at the September 28,

2005, Board meeting. The temporary regulations pertain to general licensing standards for slot machine license applicants, specific licensing standards for Category 1 slot machine license applicants and compulsive and problem gambling requirements for slot machine licensees.

(b) The following temporary regulations of the Board, 58 Pa. Code, are added: §§ 405.1—405.5, 441.13—441.14 and 443.4—443.5 to read as set forth in Annex A.

(c) The temporary regulations are effective September 28, 2005.

(d) The temporary regulations will be posted in their entirety on the Board's website and in the *Pennsylvania Bulletin*.

(e) The temporary regulations will be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board will certify the preceding order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,
Chairperson

(*Editor's Note:* For a document affecting § 443.5, adopted by this order, see 35 Pa.B. 6410 (November 19, 2005).)

Fiscal Note: 125-9. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 405. BUREAU OF INVESTIGATIONS AND ENFORCEMENT

Sec.	
405.1.	General duties and powers.
405.2.	Information.
405.3.	Office of Enforcement Counsel.
405.4.	Procedures.
405.5.	Conduct.

§ 405.1. General duties and powers.

The Bureau of Investigations and Enforcement (Bureau) has been established which has the powers and duties set forth in section 1517 of the act (relating to enforcement) including:

(1) The investigation and review of all applicants seeking a license, permit or registration.

(2) The investigation of licensees, permittees, registrants and other persons for potential violations of the act, including potential violations referred to the Bureau by the Board or other persons.

(3) The monitoring of slot machine operations to ensure compliance with the act and the integrity of gaming, including internal controls, exclusion list enforcement, underage gaming and drinking, individual complaints, information systems, integrity and security issues.

(4) The inspection and examination of licensed entities as provided in section 1517(e) of the act. Inspections may include the review and reproduction of any document or record.

(5) The conduct of audits of a licensed entity as necessary to ensure compliance with the act. An audit may include the review of accounting, administrative and

financial records, management control systems, procedures and other records utilized by a licensed entity.

(6) The referral of possible criminal violations under the act to the Pennsylvania State Police.

§ 405.2. Information.

(a) An applicant, licensee, permittee or registrant shall provide information, data and documents requested by the Bureau of Investigations and Enforcement (Bureau) under section 1517(a) of the act (relating to enforcement).

(b) A State or local law enforcement agency, including the Pennsylvania State Police and the Office of Attorney General, the Department or other executive agency shall provide information, data and documents requested by the Bureau relating to an applicant, licensee, permittee or registrant.

(c) The Bureau may, upon request, provide pertinent information relating to an applicant, licensee, permittee or registrant to law enforcement agencies, including the Federal Bureau of Investigation or gaming authorities of the Commonwealth or other domestic or foreign agencies or jurisdictions.

(d) Information under this section may be provided or received by electronic distribution.

§ 405.3. Office of Enforcement Counsel.

(a) The Office of Enforcement Counsel has been established within the Bureau of Investigations and Enforcement (Bureau) which has the following powers and duties:

(1) Advise the Bureau on all matters, including the granting of licenses, permits or registrations, the conduct of background investigations, audits and inspections and the investigation of potential violations of the act.

(2) File recommendations and objections relating to the issuance of licenses, permits and registrations on behalf of the Bureau.

(3) Initiate, in its sole discretion, proceedings for violations of the act by filing a complaint or other pleading with the Board seeking civil fines or penalties, the imposition of conditions on licenses, or the suspension or revocation of a license.

(4) The Office of Enforcement Counsel may seek a settlement that may include fines, penalties or other actions subject to approval by the Board.

(b) The Enforcement Counsel is the Director of the Office of Enforcement Counsel. The Enforcement Counsel will be selected by the Board and shall be an attorney admitted to practice before the Pennsylvania Supreme Court.

(c) The Director of the Office of Enforcement Counsel shall report to the Executive Director of the Board on administrative and operational matters.

§ 405.4. Procedures.

(a) The Office of Enforcement Counsel shall act as the prosecutor in all enforcement actions under the act.

(b) The Board's Chief Counsel shall advise the Board in its adjudicatory capacity and represent the Board in appellate actions under the act.

(c) If the Bureau or the licensing Bureau files an objection to any license, permit or registration, an evidentiary record shall be established to allow the Board to reach a decision in accordance with the act.

§ 405.5. Conduct.

(a) An attorney representing the Office of Enforcement Counsel, or an employee involved in the hearing process, may not discuss the case *ex parte* with a hearing officer, Chief Counsel or Board member.

(b) A hearing officer, the Chief Counsel or a Board member may not discuss or exercise any supervisory responsibility over any employee with respect to an enforcement hearing with which the employee is involved.

(c) If it becomes necessary for the Chief Counsel or Board member to become involved on behalf of the Board in any enforcement proceeding, the Chief Counsel or Board member shall be prohibited from participating in the adjudication of that matter and shall designate appropriate individuals to exercise adjudicatory functions.

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441. SLOT MACHINE LICENSES

§ 441.13. Notification of anticipated or actual changes in key employee qualifiers or key employees.

Each slot machine licensee or applicant shall immediately notify the Board, in writing, as soon as practicable, of the proposed appointment, appointment, proposed nomination, nomination, election, hiring, intended resignation, resignation, removal, firing, incapacitation or death of any person required to be licensed as a key employee qualifier or key employee under §§ 435.2 and 435.3 (relating to key employee qualifier license; and key employee license). The notice must be addressed to the Office of the Clerk.

§ 441.14. Notification of new financial sources.

Each slot machine licensee or applicant shall immediately notify the Board, in writing, as soon as it becomes aware that it intends to enter into a transaction which would affect any relation to its licensed facility and may result in any new financial backers. The notice must be addressed to the Office of the Clerk.

CHAPTER 443. CATEGORIES OF LICENSURE

§ 443.4. Category 2 slot machine licenses.

(a) To be eligible to apply for a Category 2 slot machine license, an applicant shall comply with Chapter 441 (relating to slot machine licenses) and submit the following:

(1) A sworn or affirmed statement that neither the applicant, nor any of its affiliates, intermediaries, subsidiaries or holding companies is eligible to seek a Category 1 slot machine license.

(2) A statement detailing the proposed plans and location of the licensed facility.

(3) A statement detailing and establishing that the proposed location is in a revenue or tourism-enhanced location and is in compliance with the geographical requirements of section 1304(b) of the act (relating to Category 2 slot machine license). The statement must include the appropriate business and tourism studies, economic impact studies, projected revenue and business plans.

(4) Other information deemed necessary by the Board.

(b) The Board may issue a Category 2 slot machine license if it determines that the applicant has complied with this section and Chapter 441 and has proven by clear and convincing evidence that it has the financial

stability and integrity and the good character, honesty, integrity and responsibility to qualify for a slot machine license.

§ 443.5. Category 3 slot machine license.

(a) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Amenities—Any ancillary activities, services or facilities in which a registered guest or the transient public, in return for non-de minimis consideration, may participate at a resort hotel, including, but not limited to:

(i) Sports and recreational activities and facilities such as a golf course or golf driving range, tennis courts or swimming pool.

(ii) Health spa, convention, meeting and banquet facilities.

(iii) Entertainment facilities.

(iv) Restaurant facilities.

Non-de minimis consideration—A payment of \$25 or more per patron paid to a slot machine licensee.

Patron of the amenities—Any individual who is a registered attendee of a convention, meeting or banquet event or a participant in a sport or recreational event or any other social, cultural or business event held at a resort hotel or who participates in one or more of the amenities provided to registered guests of the resort hotel.

Substantial year-round recreational guest amenities—An applicant offers on its premises three or more of the following amenities:

(i) Sports and recreational activities and facilities such as a golf course or golf driving range.

(ii) Tennis courts or swimming pool.

(iii) Health spa.

(iv) Meeting and banquet facilities.

(v) Entertainment facilities.

(vi) Restaurant facilities.

(vii) Downhill or cross-country skiing facilities.

(viii) Bowling lanes.

Well-established resort hotel—A resort hotel having no fewer than 275 guest rooms under common ownership and having substantial year-round recreational guest amenities.

(b) To be eligible to receive a Category 3 slot machine license, an applicant shall comply with Chapter 441 and submit the following:

(1) A sworn or affirmed statement that the applicant, its affiliate, intermediary, subsidiary or holding company has not applied for, has not been approved for and has not been issued a Category 1 or 2 slot machine license.

(2) A statement detailing the proposed plans and location of the licensed facility and confirming that the facility shall be located at a well-established resort hotel.

(3) Documentation satisfactory to the Board proving that the applicant is the owner of the established resort hotel or is a wholly owned subsidiary of the owner of the established resort hotel. Documentation may include, but not be limited to, copies of the following documents:

(i) If a corporation, the applicant shall submit the following:

- (A) Articles of incorporation.
- (B) Charter.
- (C) By-laws.
- (ii) If a partnership, the applicant shall submit the following:
 - (A) Partnership agreements.
 - (B) Certificates of limited partnership, if applicable.
- (iii) If a limited liability company, the applicant shall submit the following:
 - (A) Certificates of formation, amendment and cancellation.
 - (B) Operating agreements.
- (4) A plan detailing how the applicant, as part of its operational plan, will monitor the gaming area to ensure that only the following persons are permitted to enter the gaming area:
 - (i) Registered guests who are 21 years of age or older.
 - (ii) Patrons of one or more of the amenities who are 21 years of age or older.
 - (iii) Authorized employees who are 18 years of age or older.
 - (iv) Other persons authorized by the Board.
- (5) Information deemed necessary by the Board to determine the operational viability, financial fitness or character of the applicant.
- (c) The Board may issue a Category 3 slot machine license if it determines that the applicant has complied with this section and the applicable provisions of Chapter 441 and has proven by clear and convincing evidence that it has the financial stability and integrity and the good character, honesty, integrity and responsibility to qualify for a slot machine license.

[Pa.B. Doc. No. 05-2159. Filed for public inspection November 18, 2005, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CHS. 441 AND 443]
Amendment to Temporary Regulations; Slot Machine Licenses

Under the Pennsylvania Gaming Control Board's (Board) Resolution No. 2005-3 REG, entitled Adoption of Temporary Regulations, dated June 16, 2005, and Resolution No. 2005-4, entitled Adopting of Draft Regulations as Temporary Regulations for the General Licensing Standards for Slot Machine License Applicants Temporary Regulations, dated July 21, 2005, the Board has the authority to amend the temporary regulations, adopted on June 16, 2005, and July 21, 2005, as it deems necessary in accordance with the purpose of the act of July 5, 2004 (P. L. 572, No. 71) (Act 71) and to further the intent of Act 71. Therefore the Board has decided to make editorial changes to the temporary regulations, dated June 16, 2005, and July 21, 2005, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4045 (July 15, 2005) and 35 Pa.B. 4828 (August 6, 2005).

Therefore, the Board has deposited with the Bureau amendments to §§ 441.4 and 443.5. The amendments are effective as of November 2, 2005. The temporary regulations of the Board, Chapters 441 and 443, are amended by amending §§ 441.4 and 443.5 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

THOMAS A. DECKER,
Chairperson

(Editor's Note: For the document adding § 443.5, amended by this order, see 35 Pa.B. 6407 (November 19, 2005).)

Fiscal Note: 125-7. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART VII. GAMING CONTROL BOARD
Subpart C. SLOT MACHINE LICENSING
CHAPTER 441. SLOT MACHINE LICENSES

§ 441.4. Slot machine license application.

To be eligible for a slot machine license, an applicant shall submit an application which includes the following:

* * * * *

(35) A chart of existing vendors including:

- (i) The name, address and telephone number and tax identification number of the vendor.
- (ii) The type of goods or services, or both, provided by the vendor.
- (iii) The total dollar amount of business with the vendor in the past 12 months.
- (iv) The total dollar amount of business expected to be conducted with the vendor in the next 12 months.

(36) Other information requested by the Board.

§ 443.5. Category 3 slot machine license.

* * * * *

(b) To be eligible to receive a Category 3 slot machine license, an applicant shall comply with Chapter 441 (relating to slot machine licenses) and submit the following:

- (1) A sworn or affirmed statement that the applicant, its affiliate, intermediary, subsidiary or holding company has not applied for, has not been approved for and has not been issued a Category 1 or 2 slot machine license.
- (2) A statement detailing the proposed plans and location of the licensed facility and confirming that the facility shall be located at a well-established resort hotel.
- (3) Documentation satisfactory to the Board proving that the applicant is the owner of the well-established resort hotel or is a wholly owned subsidiary of the owner of the well-established resort hotel. Documentation may include, but not be limited to, copies of the following documents:

* * * * *

[Pa.B. Doc. No. 05-2160. Filed for public inspection November 18, 2005, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS 401, 435, 437 AND 441]

Final Temporary Regulations; Vendor Registration and Certification

The Pennsylvania Gaming Control Board (Board), under authority in 4 Pa.C.S. § 1202(b)(14) (relating to general and specific powers), adopts temporary regulations to facilitate implementation of the provisions of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Subpart B, entitled Licensing, Registering, Certifying and Permitting, contains Chapter 435, entitled Employees and Chapter 437, entitled Vendor Registration and Certification. In addition, regulations will be added to Chapter 441, entitled Slot Machine Licensing.

Section 435.5 has been added to Chapter 435 to require the registration of a class of nongaming employees. Chapter 437 focuses primarily on the general application process for vendor registration and certification. Sections 441.15, 441.16 and 441.17 have been added to Chapter 441 and provide reporting requirements for slot machine licensees and applicants.

Purpose and Background

Under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board is required to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment in this Commonwealth and to carry out the policy and purposes of the Board. In adopting the temporary regulations, the Board has considered the public comments submitted to the Board and the regulatory practices of other Commonwealth agencies and gaming jurisdictions.

Under 4 Pa.C.S. § 1203, the temporary regulations adopted by the Board will expire no later than 3 years following the effective date of 4 Pa.C.S. Part II or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1205), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Paperwork

The Board will publish vendor registration and certification applications and other necessary forms for the administration of certifying and registering vendors.

Financial Impact

The regulations and 4 Pa.C.S. Part II will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed in, provide gaming related services or operate gaming facilities.

The appropriations from the State for the implementation of 4 Pa.C.S. Part II and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed gaming entities as specified within 4 Pa.C.S. Part II. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the gaming fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the

Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing and registration of individuals and other classes of licensees will be reimbursed by the individuals or licensees through fees established by the Board.

It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board will have no financial impact on the State budget.

Statutory Authority

Under 4 Pa.C.S. § 1203, the Board has authority to adopt and publish temporary regulations to implement the policies and purposes of 4 Pa.C.S. Part II.

Regulatory Review

Under 4 Pa.C.S. § 1203, the Board may adopt temporary regulations that are exempted from the Regulatory Review Act and sections 201—205 of the CDL. Under 4 Pa.C.S. § 1203, the Board has authority to adopt regulations that expire 2 years from the effective date of 4 Pa.C.S. Part II.

Findings

The Board finds that the adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

The Board, acting under the authorizing statute, orders that:

(a) The Board acting under the authority of the Pennsylvania Race Horse Development and Gaming Act adopts as its final-form temporary regulations the draft regulations adopted by resolution at the July 21, 2005, Pennsylvania Gaming Control Board meeting. The temporary regulations of the Board, 58 Pa. Code Part VII, are amended by amending § 401.4 and by adding §§ 435.5, 437.1—437.10 and 441.15—441.17 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Board's final-form temporary regulations are designated as Title 58 Recreation, Part VII Gaming Control Board: Subpart B. Licensing, Registering, Certifying and Permitting, specifically Chapter 437 Vendor Registration and Certification.

(c) The temporary regulations are effective as of the date of this order.

(d) The temporary regulations will be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of 4 Pa.C.S. Part II and to further the intent of 4 Pa.C.S. Part II.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-8. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART VII. GAMING CONTROL BOARD
Subpart A. GENERAL PROVISIONS
CHAPTER 401. PRELIMINARY PROVISIONS

§ 401.4. Definitions.

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

* * * * *

Certified vendor—A vendor that holds a vendor certification.

* * * * *

Gaming area—Any portion of a licensed facility where slot machines have been installed for use or play.

* * * * *

Nongaming employee—An employee of a slot machine licensee or certified vendor whose duties are required to be performed in a gaming area or restricted area but who is not included within the definition of “key employee qualifier,” “key employee” or “gaming employee,” including, but not limited to, the following positions, regardless of job title:

- (i) Bartender.
- (ii) Cocktail server.
- (iii) Persons solely engaged in preparing or serving food or beverages.
- (iv) Clerical or secretarial personnel.
- (v) Janitorial personnel.
- (vi) Stage, sound and light technicians.
- (vii) Other positions which the Board will determine based on detailed analyses by the Board of job descriptions as provided in the internal controls of the slot machine licensees as approved by the Board or provided in the slot machine licensee’s verification of the location of vendor services included with the vendor registration or certification application.

* * * * *

Regular or continuing basis—A vendor will be deemed to conduct business on a regular or continuing basis if:

- (i) The total dollar amount of transactions with a single slot machine licensee or applicant is or will be greater than \$200,000 within any consecutive 12-month period.
- (ii) The total dollar amount of transactions with slot machine licensees or applicants is or will be greater than \$500,000 within any consecutive 12 month period.

* * * * *

Restricted area—Any area specifically designated by the Board as restricted, including:

- (i) The cashiers’ cage.
- (ii) The soft count room.
- (iii) The hard count room.
- (iv) The slot booths.
- (v) The surveillance room.
- (vi) The slot machine repair room.
- (vii) The progressive controller room.

- (viii) The central control computer room.
- (ix) The information technology department.
- (x) The specific areas designated and approved by the Board for the conduct of gaming in the licensed facility.
- (xi) Any additional area that a slot machine licensee designates a restricted in its approved internal controls.

* * * * *

Vendor—A person who provides goods or services to a slot machine licensee or applicant, but who is not required to be licensed as a manufacturer, supplier or junket enterprise. The term includes:

- (i) Suppliers of alcoholic beverages (other than the Liquor Control Board), food and nonalcoholic beverages.
- (ii) Refuse handlers.
- (iii) Vending machine providers and service personnel.
- (iv) Linen and uniform suppliers.
- (v) Janitorial and maintenance companies, not relating to the repair of slot machines or associated equipment.
- (vi) Tenant businesses or franchises located within licensed facilities.
- (vii) Providers of transportation services.
- (viii) Companies, subcontractors and professionals involved in the construction of a facility for a slot machine licensee or applicant.
- (ix) Lessors of real property or goods.
- (x) Other entities which the Board will determine based on detailed analyses by the Board of vendor contracts.

Vendor certification—A certification issued by the Board authorizing a vendor to provide goods or services to a slot machine licensee or applicant.

Vendor registrant—A vendor that is registered with the Board.

Vendor registration—A registration issued by the Board authorizing a vendor to provide goods or services to a slot machine licensee or applicant.

Subpart B. LICENSING, REGISTERING AND PERMITTING

CHAPTER 435. EMPLOYEES

§ 435.5. Nongaming employee registration.

(a) In accordance with section 1318 of the act (relating to occupation permit application), the Board has the power to classify a category of nongaming employees.

(b) Nongaming employees shall apply for and receive a nongaming employee registration from the Board.

(c) An application for a nongaming employee registration must be on a form prescribed by the Board and include the following information:

- (1) The name and address of the individual, to include the home address and residence history and all business addresses.
- (2) Daytime and evening telephone numbers.
- (3) Date of birth.
- (4) Physical description of the applicant.
- (5) Social Security number.
- (6) Citizenship, and, if applicable, resident alien status, including employment authorization.

(7) Employment history, including gaming-related employment and contact information for prior employers.

(8) Verification of the applicant's employment or an offer of employment from a slot machine licensee or applicant or a certified vendor or vendor applicant.

(9) A description of the employment responsibilities of the individual and their relationship to the operation of the slot machine licensee or certified vendor.

(10) A signed, dated and notarized release authorization necessary to obtain information from governmental agencies and other institutions about the applicant.

(11) A description of the individual's arrests and convictions, if any.

(12) A photograph that meets the requirements prescribed by the Board.

(13) As deemed necessary by the Board, a set of fingerprints taken by the Pennsylvania State Police or a criminal justice agency designated by the Pennsylvania State Police and transmitted to the Pennsylvania State Police.

(14) Details relating to any similar licenses, permits or registrations obtained, denied or revoked in other jurisdictions.

(15) A nonrefundable application processing fee.

(16) Additional information requested by the Board.

(d) After review of the information required under subsection (c), the Board may register the individual if the individual has proven that he is qualified to be registered under this section.

(e) Nongaming employee registrations shall be submitted to the Board by a slot machine licensee or applicant or a certified vendor with a verification provided by the slot machine licensee or applicant or certified vendor confirming the location of the nongaming employee's duties at the licensed facility.

CHAPTER 437. VENDOR REGISTRATION AND CERTIFICATION

Sec.

437.1.	Vendor registration requirements.
437.2.	Vendor Registration Form.
437.3.	Vendor certification requirements.
437.4.	Vendor Certification Application.
437.5.	Active vendors list; prohibited vendors.
437.6.	Existing agreements.
437.7.	Permission to conduct business prior to certification.
437.8.	Disqualification criteria.
437.9.	Exemption from vendor registration or certification requirements.
437.10.	Emergency vendor.

§ 437.1. Vendor registration requirements.

(a) Each slot machine licensee or applicant shall file a Vendor Registration Form with the Board to conduct business with a vendor if the total dollar amount of transactions with a slot machine licensee or applicant is or will be greater than \$2,500 within any consecutive 12 month period, except as provided in §§ 437.3 and 437.7 (relating to vendor certification requirements; and permission to conduct business prior to certification).

(b) Vendor Registration Forms shall be submitted by a slot machine licensee or applicant with a verification provided by the slot machine licensee or applicant confirming the location of the vendor's services at the licensed facility.

(c) Vendor applicants for registration and registered vendors shall be subject to the general application, licens-

ing and diversity participation requirements of Chapters 421, 423 and 481 (relating to general provisions; applications; and general provisions).

§ 437.2. Vendor Registration Form.

A Vendor Registration Form must be in a format prescribed by the Board requesting the following information:

(1) Any official or trade name used.

(2) Business address.

(3) Telephone number.

(4) The nature of the applicant's business and the type of goods or services to be provided and the name of the slot machine licensees or applicants to which the goods or services will be provided.

(5) Federal Employer Identification Number/Tax Identification Number.

(6) Whether the vendor is minority- or women-owned and controlled and the vendor's enterprise certification number, if any, as required by § 481.3 (relating to diversity participation).

(7) Form of business, state and date of incorporation or formation, if applicable.

(8) The date on which a formal acceptance of the agreement to conduct business with a slot machine licensee or applicant occurred and a description thereof including the expected duration and compensation.

(9) The name, address and percentage of ownership of each entity directly owning more than 5% of the vendor or its business.

(10) The names and addresses of each of the following:

(i) Any individual who entered into an agreement with or will deal directly with the slot machine licensee or applicant, including sales representatives; the immediate supervisors of those persons; and persons responsible for the office out of which the supervisors work.

(ii) Any officer, partner or director who will be significantly involved in the conduct of the vendor business with the slot machine licensee or applicant.

(iii) If the vendor is a sole proprietorship, the name of the sole proprietor.

(iv) Each beneficial owner of more than 5% of the vendor and the percentage of that ownership.

(11) The name, position or title and signature of the individual who supplied the information in the application.

(12) Properly executed forms for consents to inspections, searches and seizures; waivers of liability for disclosures of information and consents to examination of accounts and records in forms as prescribed by the Board.

(13) Other information requested by the Board.

§ 437.3. Vendor certification requirements.

(a) If a vendor will conduct business with a slot machine licensee on a regular or continuing basis, the vendor shall be certified by the Board prior to conducting business, except as provided in §§ 437.6 and 437.7 (relating to existing agreements; and permission to conduct business prior to certification).

(b) Notwithstanding the definition of "regular or continuing basis," the Board may, at its discretion, require a vendor to apply for certification from the Board if one or more of the following apply:

(i) The Board determines certification is appropriate based on the Board's analysis of the vendor's services.

(ii) The vendor's employees will have access to a restricted area or gaming area.

(c) Vendor Certification Applications shall be submitted by a slot machine licensee or applicant with a verification provided by the slot machine licensee or applicant confirming the location of the vendor's services at the licensed facility.

(d) Vendor applicants for certification and certified vendors shall be subject to the general application, licensing and diversity participation requirements of Chapters 421, 423 and 481 (relating to general provisions; applications; and general provisions).

§ 437.4. Vendor Certification Application.

A Vendor Certification Application must consist of an application processing fee and be in a format prescribed by the Board requesting the following information:

- (1) Any official or trade name used.
- (2) Current and former business addresses.
- (3) Telephone number.
- (4) The nature of the applicant's business and the type of goods or services to be provided and the name of the slot machine licensees or applicants to which the goods or services will be provided.
- (5) Federal Employer Identification Number/Tax Identification Number.
- (6) Whether the vendor is minority- or women-owned and controlled and the vendor's enterprise certification number, if any.
- (7) Form of business and a copy of the certificate of incorporation, charter, by-laws, partnership agreement, trust agreement or other basic documentation of the vendor.
- (8) The date on which a formal acceptance of the agreement to conduct business with a slot machine licensee or applicant occurred and a copy of the agreement or in the absence of a written agreement, a description thereof, including the expected duration and compensation.
- (9) The names and addresses of all subsidiaries.
- (10) Whether the applicant has had any registration, license, permit or certificate granted, denied, suspended, conditioned or revoked by any government agency in this Commonwealth or any other jurisdiction, the nature of the registration, license, permit or certificate, the agency and its location, the date of the action and the facts related thereto.
- (11) The names and addresses of each of the following:
 - (i) Any individual who entered into the agreement with or will deal directly with the slot machine licensee or applicant, including sales representatives; the immediate supervisors of the persons; and all persons responsible for the office out of which the supervisors work.
 - (ii) Any officer, partner or director who will be involved in the conduct of the vendor business with the slot machine licensee or applicant.
 - (iii) If the vendor is a sole proprietorship, the name of the sole proprietor.
 - (iv) Each beneficial owner of more than 5% of the vendor and the percentage of that ownership.

(12) The name, address and percentage of ownership of each entity directly owning more than 5% of the vendor or its business.

(13) A Vendor Certification Application for the applicant and for each affiliate, intermediary, subsidiary and holding company of the applicant.

(14) A Multi-Jurisdictional Personal History Disclosure Form and a Pennsylvania Supplement for each natural person who is a key employee qualifier or a Key Employee Qualifier Entity Form for each key employee qualifier that is an entity.

(15) The applicant's Federal tax returns and related documents for the 3 years, State tax returns, when appropriate and related documents for the year preceding application.

(16) Information regarding any judgments or petitions for bankruptcy or insolvency and any relief sought under any provision of the Federal Bankruptcy Act or any State insolvency law.

(17) Information regarding any civil, criminal, administrative and investigatory proceedings relating to the applicant and its key employees and key employee qualifiers.

(18) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481 (relating to general provisions), signed by the chief executive officer of the applicant.

(19) The name, position or title and signature of the individual who supplied the information in the application.

(20) Properly executed forms for consents to inspections, searches and seizures; waivers of liability for disclosures of information and consents to examination of accounts and records in forms as prescribed by the Board.

(21) Additional information requested by the Board.

§ 437.5. Active vendors list; prohibited vendors.

(a) The Board will maintain a list of active registered or certified vendors and a list of prohibited vendors.

(b) A slot machine licensee or applicant may not enter into an agreement or continue to do business with any vendor listed as a prohibited vendor.

(c) The Board will consider the following factors in determining whether a vendor will be listed as a prohibited vendor:

(1) The vendor has been found disqualified under § 437.8 (relating to disqualification criteria).

(2) The vendor's registration or certification is suspended, revoked or denied.

(3) The vendor is restricted from reapplication by action of the Board.

(4) The vendor is temporarily prohibited from doing business with slot machine license applicants or licensees by action of the Board.

(d) No person or entity may be removed from the list of prohibited vendors except as follows:

(1) By order of the Board.

(2) Upon expiration of the applicable period of restriction.

§ 437.6. Existing agreements.

(a) An applicant for a slot machine license who maintains an existing agreement with a noncertified or unreg-

istered vendor shall file a vendor notification form on behalf of the vendor at the time of filing the slot machine license application or at a time directed by the Board.

(b) Upon the filing of the vendor notification form, the unregistered or noncertified vendor may be permitted to continue doing business with the slot machine license applicant provided that the slot machine license applicant, within 20 business days, submits to the Board the following:

(1) The slot machine license applicant certifies that it has performed due diligence on the vendor.

(2) The slot machine license applicant has filed a Vendor Registration Form or Vendor Certification Application on behalf of the vendor.

(3) Unless otherwise submitted under paragraph (2), the slot machine license applicant has submitted a copy of an existing written agreement or a precise written description of an oral agreement with the vendor to the Board.

(c) Notwithstanding the provisions of subsection (a), upon its review of the information pertaining to the vendor, the Board may, at its discretion, require termination of the agreement if the Board makes one or more of the following determinations:

(1) Disapproval of the agreement.

(2) Disapproval of the owners, officers, employees, or directors of the vendor.

(3) Denial of the vendor registration or certification.

§ 437.7. Permission to conduct business prior to certification.

(a) Notwithstanding §§ 437.1 and 437.3 (relating to vendor registration; and vendor certification requirements), the Board may, upon the written request of a slot machine licensee or applicant for each business transaction, allow an applicant for a vendor certification to conduct a business transaction with the slot machine licensee or applicant prior to the certification of the vendor applicant if the following criteria are met:

(1) A completed Vendor Certification Application has been filed by the slot machine licensee or applicant in accordance with § 437.3.

(2) The slot machine licensee or applicant shows good cause for granting the written request.

(b) Permission to conduct business under this section shall be limited to a period of 6 months, except that the Board may extend the relief for additional 6-month periods upon a showing of good cause by the slot machine licensee or applicant.

§ 437.8. Disqualification criteria.

A vendor registration or certification may be denied to any vendor applicant who has failed to prove by clear and convincing evidence that the vendor applicant or any of the persons required to be qualified, are in fact qualified in accordance with the act and with this part, or who has violated any of the provisions of the act or this part.

§ 437.9. Exemption from vendor registration or certification requirements.

(a) The following persons are exempt from the vendor registration requirements of § 437.1 (relating to vendor registration requirements) and the vendor certification requirements of § 437.3 (relating to vendor certification requirements):

(1) Entities which provide only one or more of the following services to a slot machine licensee which are the sole source provider of the services:

(i) Water.

(ii) Sewerage.

(iii) Electricity.

(iv) Natural gas.

(2) Regulated insurance companies providing insurance to the slot machine licensee or applicant and its employees.

(3) Employee benefit and retirement plans and related administrator including incorporated 401K plans and employee stock purchase programs.

(4) National or local professional associates that receive funds from the slot machine licensee for the cost of enrollment, activities and membership.

(5) State, Federal and municipal operated agencies.

(6) Liquor and wine industries regulated by the Liquor Control Board.

(7) State and Federally regulated banks or savings and loan associations where funds are deposited by slot machine licensees, not withstanding those sources or transactions provided to a slot machine licensee which require Board approval.

(8) Providers of professional services including accountants, attorneys or any person otherwise required to be licensed as such.

(9) Telecommunication service providers.

(10) Nationwide shipping services.

(11) Any person that engages in efforts to influence legislative action or administrative action on behalf of a principal for economic consideration.

(12) Public institutions of higher education.

(13) Professional entertainers, sports figures and other celebrities engaged by a slot machine licensee to appear at a slot machine licensee-sponsored special entertainment or promotional event.

(b) Nothing in this section shall be construed to bar any other business entities from seeking a waiver of vendor registration or certification requirements upon a showing of good cause.

(c) The Board may, in its sole discretion, revoke any exemption or waiver granted under this section and require any person to submit to the vendor registration and certification requirements under this part.

(d) This section does not relieve any slot machine licensee of any reporting obligations required by § 441.15 (relating to maintaining agreements; filing of agreements).

§ 437.10. Emergency vendor.

(a) A slot machine licensee may utilize an unregistered or noncertified vendor when a threat to public health, welfare or safety exists or circumstances outside the control of the slot machine licensee creates an urgency of need which does not permit the delay involved in using the formal method of vendor registration or certification.

(b) To make an emergency vendor procurement, the slot machine licensee shall:

(1) File a Vendor Notification Form with the Board within 72 hours of the vendor's commencement of services.

(2) Provide a written explanation to the Board of the basis for the emergency vendor procurement and for the selection of the particular vendor.

(3) File a Vendor Registration Form or Vendor Certification Application on behalf of the vendor within 20 business days of the filing of the Vendor Notification Form.

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441. SLOT MACHINE LICENSES

§ 441.15. Maintaining agreements; filing of agreements.

(a) *Maintaining agreements.* Each slot machine licensee and applicant will be required to maintain all of the following:

- (i) A fully signed copy of every written agreement.
- (ii) Records with respect to any oral agreement.

(b) *Changes or amendments to agreements.* Slot machine licensees and applicants are under a continuing duty to maintain all changes or amendments to the terms of the agreements subject to subsection (a).

(c) *Filing agreements.* Each slot machine licensee shall submit the following to the Board:

(i) A fully signed copy of all written agreements with manufacturer licensees or applicants, supplier licensees or applicants and with vendors subject to certification under § 437.3 (relating to vendor certification requirements).

(ii) A precise written description of any oral agreement, in accordance with subsection (f), with a manufacturer licensees or applicants, supplier licensees or applicants and vendors subject to certification under § 437.3.

(d) *Changes or amendments to filed agreements.* Slot machine licensees and applicants are under a continuing duty to file all changes or amendments to the terms of the agreements subject to subsection (c).

(e) *Additional agreements.* Notwithstanding the requirements of subsection (c), slot machine licensees or applicants may be required to submit a copy of any written agreement or a precise written description of any oral agreement as requested by the Board.

(f) *Oral agreements.* Any written description submitted under this section shall provide, at a minimum, the following:

- (1) The nature of the goods or services to be provided to the slot machine licensee or applicant.
- (2) The full name and business address of the non-slot machine licensee or applicant party to the agreement.
- (3) The duration of the agreement, or if provided in the agreement, the specific date or dates of performance.
- (4) The financial terms of the agreement.
- (5) A description of the goods or services provided, including the expected duration and compensation.

§ 441.16. Board review of agreements and records of agreements.

(a) The Board may review each agreement and record maintained or filed under § 437.4 or 441.15 (relating to Vendor Certification Application; and maintaining agreements; filing of agreements) to determine the following:

(1) The reasonableness of the terms of the agreement, including the terms of compensation.

(2) The qualifications of the persons involved in and associated with the agreement, after which the Board may make a finding as to the suitability of the persons to be involved or associated with the slot machine licensee or applicant.

(3) Whether any person involved therein or associated therewith is providing or likely to provide goods or services to, or conducting or likely to conduct business with, a slot machine licensee or applicant or its employees which requires a supplier license or a manufacturer license under section 1317 of the act (relating to supplier and manufacturer licenses application), in which case the Board will direct that a supplier or a manufacturer license application be promptly filed by the person.

(4) Whether any action is desirable or necessary to regulate, control or prevent economic concentration in any vendor industry or to encourage or preserve competition in any vendor industry.

(b) If the Board disapproves of an agreement or any person associated therewith, the Board may by order require the termination of the agreement or association or pursue any remedy or combination of remedies provided for in the act or this part. If the disapproved agreement or association is not thereafter promptly terminated, the Board may pursue any remedy or combination of remedies provided for in the act or this part. This subsection applies notwithstanding that the Board has granted an exemption under § 437.9 (relating to exemption from vendor registration or certification requirements) to any person involved in or associated with the agreement from the vendor certification requirements set forth therein.

(c) Each agreement maintained or filed under §§ 437.4 and 441.15 shall be deemed to include a provision for its termination without liability on the part of the slot machine licensee or applicant, or on the part of any qualified party to the agreement or any related agreement the performance of which is dependent upon the agreement, if the Board disapproves the agreement in accordance with subsection (b).

§ 441.17. Master purchasing and disbursement report.

(a) Each slot machine licensee or applicant shall generate a Master Purchasing and Disbursement Report for all vendor transactions. The report shall be submitted to the Board's Bureau of Licensing on the 22nd calendar day of each month by 5 p.m., unless that day is a Saturday, Sunday or a State or Federal holiday, in which case the report shall be provided by 5 p.m. on the first weekday thereafter. The report must include the following information:

(1) A payee register listing alphabetically by payee all nonpayroll transactions drawn by the slot machine licensee or applicant, including wire transfers and credits to vendors, and the following information next to the name of each payee:

- (i) Vendor certification or registration number or exemption code.
- (ii) Amount of each individual disbursement or credit.
- (iii) Date of each individual disbursement or credit.
- (iv) Subtotal of disbursements or credits by payee.
- (v) The grand total of all disbursements made during the reporting periods.

(vi) The total summarizing all previous payments in the last 12 months beginning from the first payment date.

(2) A payee register listing alphabetically by payee all transactions drawn by any affiliate, intermediary, subsidiary, holding company or agent of the slot machine licensee or applicant for goods or services that benefit the slot machine licensee or applicant, including wire transfers and credits to vendors, and the following information next to the name of each payee:

(i) Vendor certification or registration number or exemption code.

(ii) Amount of each individual disbursement or credit.

(iii) Date of each individual disbursement or credit.

(iv) Subtotal of disbursements or credits by payee.

(v) The grand total of all disbursements made during the reporting periods.

(vi) The total summarizing all previous payments in the last 12 months beginning from the first payment date.

(3) A register listing alphabetically by vendor all transactions, including wire transfers and credits, in which the

slot machine licensee or applicant itself acted in the capacity of a vendor by providing goods or services. The register must include:

(i) Vendor certification or registration number or exemption code of the vendor to whom the goods or services were provided.

(ii) Date of each individual transaction.

(iii) Amount of each individual transaction.

(iv) A general description of the type of goods or services provided.

(v) By vendor subtotals of payments or credits received by the slot machine licensee or applicant or disbursements or credits made by the slot machine licensee or applicant during the reporting period.

(vi) By vendor totals of payments or credits received or disbursements or credits made by the slot machine licensee or applicant within the applicable 12-month period.

(b) The reports shall be signed by the slot machine licensee or applicant and transmitted to the Board's Bureau of Licensing by means of electronic data transmission or in a form prescribed by the Board.

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