

Regulatory Analysis Form

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency:

Pennsylvania Gaming Control Board

(2) Agency Number:

Identification Number: 125-155

IRRC Number:

(3) PA Code Cite:

58 Pa.Code §§ 549, 561, 633a. and 645a.

(4) Short Title:

Table Game Rules for Blackjack and Pai Gow Poker

(5) Agency Contacts (List Telephone Number and Email Address):

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N/A

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation
 Final Regulation
 Final Omitted Regulation

- Emergency Certification Regulation;
 Certification by the Governor
 Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

With this rulemaking, the Board is proposing to replace the temporary regulation in Chapter 549 with the permanent regulation in Chapter 633a. and the temporary regulation in Chapter 561 with the permanent regulation in Chapter 645a.

This rulemaking provides the definitions, rules of play, payout odds and amounts and permissible wagers for the authorized table games of Blackjack and Pai Gow Poker.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1302A(1) – (4) (relating to regulatory authority).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

There are no other applicable federal or state statutes, regulations or court decisions that mandate adoption of these changes contained in this rulemaking.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Pursuant to the Act, the Board was tasked with: establishing standards and rules to govern the conduct of table games; establishing notice requirements pertaining to minimum and maximum wagers; and requiring certificate holders to provide written information or signage regarding the table game rules, payoffs, minimum and maximum wagers. These regulations are necessary to protect the integrity of gaming and ensure the accurate collection of taxes for the Commonwealth on table game revenue.

Table game patrons will benefit from these regulations as they will have notice of the rules of play, permissible wagers and the payout odds at each game offered in the licensed facility. Additionally, with this rulemaking certificate holders will have a clear understanding of layout requirements, dealing procedures and rules of play for the table games.

Regarding the rules of play for Blackjack: The Board believes that the fundamental rules of play in Blackjack, including optional surrender and the requirement that dealers stand on a soft 17, achieves a fair and appropriate balance between the revenue generated for the certificate holders, and derivatively to the Commonwealth, and the fairness to patrons. At this time, the Board has maintained its current rules of play in order to ensure consistency in the rules of play at all licensed facilities.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

There is no data, as defined under section (3) of the Regulatory Review Act (71 P.S. § 745.3), upon which this rulemaking is based.

(12) Describe who and how many people will be adversely affected by the regulation. How are they

affected?

The Board does not anticipate that anyone will be adversely affected by this regulation.

(13) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

Certificate holders that elect to offer Blackjack and Pai Gow Poker at their licensed facilities will be required to comply with this regulation. If electing to offer these games, an operator will be required to submit for approval the table layouts, will be required to update their gaming guides and submit a rules submission form. The rules submission form is available on the PGCB website, are standardized checklists for each and are relatively simple to fill out.

Currently, all certificate holders offer Blackjack and Pai Gow Poker.

(14) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Although operators will be required to purchase equipment to conduct the table games they choose to offer, the costs vary depending on the type and quality of equipment purchased and the number of tables installed. These costs will be offset by the revenues generated from the play of table games.

(15) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

It is not anticipated that this regulation will require expenditures or provide savings to local governments; however, local governments will receive a local share assessment of the operator's revenue.

(16) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

It is not anticipated that this regulation will require expenditures or provide savings to state government; however, with the passage of table games, state government will receive 14% of a certificate holder's gross table game revenue for two years following the commencement of table game operations. After the first two years, the state will receive 12% of gross table game revenue.

(17) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government

for the current year and five subsequent years.

| | Current FY Year | FY +1 Year | FY +2 Year | FY +3 Year | FY +4 Year | FY +5 Year |
|-----------------------------|------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| SAVINGS: | \$ | \$ | \$ | \$ | \$ | \$ |
| Regulated Community | N/A | N/A | N/A | N/A | N/A | N/A |
| Local Government | N/A | N/A | N/A | N/A | N/A | N/A |
| State Government | N/A | N/A | N/A | N/A | N/A | N/A |
| Total Savings | N/A | N/A | N/A | N/A | N/A | N/A |
| COSTS: | N/A | N/A | N/A | N/A | N/A | N/A |
| Regulated Community | N/A | N/A | N/A | N/A | N/A | N/A |
| Local Government | N/A | N/A | N/A | N/A | N/A | N/A |
| State Government | N/A | N/A | N/A | N/A | N/A | N/A |
| Total Costs | N/A | N/A | N/A | N/A | N/A | N/A |
| REVENUE LOSSES: | N/A | N/A | N/A | N/A | N/A | N/A |
| Regulated Community | N/A | N/A | N/A | N/A | N/A | N/A |
| Local Government | N/A | N/A | N/A | N/A | N/A | N/A |
| State Government | N/A | N/A | N/A | N/A | N/A | N/A |
| Total Revenue Losses | N/A | N/A | N/A | N/A | N/A | N/A |

(17a) Provide the past three year expenditure history for programs affected by the regulation.

| Program | FY -3 | FY -2 | FY -1 | Current FY |
|---------------------|--------------|--------------|--------------|-------------------|
| PGCB Overall Budget | \$33,310,000 | \$33,744,500 | \$35,800,000 | \$35,501,000 |
| | | | | |

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Standardized rules of play ensure fairness to the patrons who participate in table gaming at all licensed facilities in the Commonwealth. Additionally, the Board believes that the fundamental rules of play in Blackjack, including optional surrender and the requirement that dealers stand on a soft 17, achieves a fair and appropriate balance between the revenue generated for the certificate holders, and derivatively to the Commonwealth, and the fairness to patrons. At this time, the Board has maintained its current rules of play in order to ensure consistency in the rules of play at all licensed facilities.

(19) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

When the temporary regulations were promulgated, the Board provided for a 30 day public comment period whereby the industry was invited to provide suggestions for revision to the temporary regulations. Several of the suggestions received were incorporated into subsequent revisions to the temporary regulations and others were incorporated into this rulemaking.

(20) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Based on the comments received on the proposed rulemaking for Blackjack, the Board considered allowing operators to hit on a soft 17, make surrender optional to the operators and payout Blackjack at odds of 6 to 5 instead of 3 to 2.

Under the prevailing rules of Blackjack in Pennsylvania, Pennsylvania's casino operators have a greater house edge than that experienced in the New Jersey, despite New Jersey's more casino friendly rules, which belies assertions of non-competitiveness. Hitting on a soft 17, not allowing players to surrender and allowing payout odds of 6 to 5 instead of 3 to 2 all increase the house edge but provide no benefit to the average Blackjack player. Additionally, increasing the hold percentage by making the rules less favorable to patrons may have a negative affect on revenue to the facility and thus the Commonwealth if fewer patrons play as a result. During the comment period, the Board received over seventy comments from the general public indicating that they now patronize casinos in Pennsylvania rather than neighboring states specifically because of the Blackjack rules in place for Pennsylvania casinos.

The Board has therefore not amended the basic rules of play in this final-form rulemaking as the Board continues to believe that the rules in place provide a fair and appropriate balance between revenues to the facility, and thus the Commonwealth, and fairness to patrons.

(21) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no corresponding federal requirements.

(22) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The regulations are consistent with the objectives and requirements of the Gaming Act. Having more advantageous rules of play for the patron in Blackjack should attract more patrons to gaming in the Commonwealth versus other states and should not negatively affect Pennsylvania's ability to compete with other states. As stated above, despite asserts to the contrary, Pennsylvania casino operators month over month have had a better hold percentage than New Jersey with its less patron friendly rules.

(23) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

With this rulemaking, the Board is proposing to replace the temporary regulation in Chapter 549 with the permanent regulation in Chapter 633a. and the temporary regulation in Chapter 561 with the permanent regulation in Chapter 645a.

(24) Submit a statement of legal, accounting or consulting procedures and additional reporting,

recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This rulemaking will require certificate holders to: post signs at gaming tables; have complete sets of rules for all the games they offer available for public inspection; produce a gaming guide summarizing the rules of the games they offer; and file Rules Submissions for each table game they elect to offer. The Rules Submissions are standardized checklists for each game, are relatively simple to fill out and are available on the Gaming Board website at <http://www.pgcb.state.pa.us/?p=187>

(25) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special provisions have been added.

(26) Include a schedule for review of the regulation including:

- | | |
|---|------------------------------------|
| A. The date by which the agency must receive public comments: | <u>Final-form – N/A</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>2nd Quarter 2012</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon final publication</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>Upon final publication</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

(27) Provide the schedule for continual review of the regulation.

No formal review schedule has been established. Instead, the Board is constantly reviewing its regulations and proposing amendments as the need arises.