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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

June 1, 2011

Kevin O'Toole, Executive Director
Pennsylvania Gaming Control Board
Strawberry Square
Verizon Tower, 5th Floor
Harrisburg, PA 17106-9060

Re: Regulation #125-142 (IRRC #2890)
Pennsylvania Gaming Control Board
General Table Games Provisions; Credit; Table Game Minimum Training Standards

Dear Mr. O'Toole:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Fiona Wilmarth
Acting Executive Director
sfh

Enclosure

cc: Honorable Jane M. Earl, Majority Chairman, Senate Community, Economic and
Recreational Development Committee
Honorable Wayne D. Fontana, Minority Chairman, Senate Community, Economic and
Recreational Development Committee
Honorable Curt Schroder, Majority Chairman, House Gaming Oversight Committee
Honorable Rosita C. Youngblood, Minority Chairman, House Gaming Oversight Committee
Robert A. Mulle, Esq., Office of Attorney General
Andrew Clark, Esq., Office of General Counsel

Comments of the Independent Regulatory Review Commission



Pennsylvania Gaming Control Board Regulation #125-142 (IRRC #2890)

General Table Games Provisions; Credit; Table Game Minimum Training Standards

June 1, 2011

We submit for your consideration the following comments on the proposed rulemaking published in the April 2, 2011 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Gaming Control Board (Board) to respond to all comments received from us or any other source.

CHAPTER 601a. GENERAL TABLE GAMES PROVISIONS

1. Section 601a.3. Request to offer a new table game or new feature for an existing table game. – Clarity and lack of ambiguity; Implementation procedures.

Under this section, a certificate holder that wants to offer a new game, wager or feature must file a written request with the Board's Executive Director. It is unclear what happens to the request once it is filed. This lack of clarity raises questions on how the section will be administered. For example, can the request be denied? What criteria will be used to evaluate the request? How long will the Board have to respond to the request? We suggest that the final-form regulation include the procedures and criteria that will be used to evaluate a request or an appropriate cross-reference to where the procedures can be found.

2. Section 601a.4. Waiver of existing table game regulations. – Clarity and lack of ambiguity; Implementation procedures.

Subsection (a) allows a certificate holder to file a petition in accordance with Section 493a.4 (relating to petitions generally) if it wants to operate a table game in a manner inconsistent with the Board's regulation. If a certificate holder wants to offer an authorized table game on an electronic gaming table in a manner that is inconsistent with the Board's regulations, it must file a

written request with the Board's Executive Director. We have two comments. First, why do Subsections (a) and (b) have different procedures for waiving Board regulations? Second, if a written request to the Board's Executive Director is all that is needed to waive certain regulations, we question what procedures and criteria will be used to evaluate the request. These procedures and criteria should be included in the final-form regulation.

3. Section 601a.5. Electronic, electrical and mechanical devices prohibited. – Consistency with the intent of the General Assembly; Clarity and lack of ambiguity; Implementation procedures.

This section prohibits a person from using certain electronic, electrical and mechanical devices when playing table games. The section begins with the phrase, "Except as specifically permitted by the Board..." Under what circumstances would the Board allow the use of these types of devices? How would a person secure permission to use any of these devices? Would the use of these devices compromise the integrity of gaming in any way? The Board should either clarify this section to address these concerns or delete the phrase from the final-form regulation.

4. Section 601a.6. Minimum and maximum wagers; additional wagering requirements. – Reasonableness.

A commentator requested an addition to the language of Subsection (c) that would allow the dealer to announce a "Pay or take to the table limit." The commentator believes this additional language would be consistent with industry standards and allow games to proceed without an interruption to review each wager. The Board should consider the addition of this language.

5. Section 601a.7. Rules of the game; notice. – Reasonableness; Clarity and lack of ambiguity; Implementation procedures; Need.

Subsection (c)

This subsection establishes the procedures that a certificate holder must follow when it wants to change the permissible minimum or maximum wager at a table game. A commentator believes that the requirements of Subparagraphs (c)(2)(i) and (ii) are not needed when the minimum wager amount is lowered. The commentator states that patrons are not at risk of losing more money and it provides the casinos with the ability make adjustments to their business when demand is not as great as anticipated. The Board should explain why it is necessary for Subparagraphs (c)(2)(i) and (ii) to apply to minimum wagers.

Subsection (d)

This subsection requires the Board's Bureau of Gaming Operations to approve the location, size and language of each sign required under this section. However, the proposed rulemaking does not include the procedures for obtaining the necessary Board approval. We suggest that the final-form regulation include the procedures or an appropriate cross-reference to where the procedures can be found. We have a similar concern with Subsections 601a.8(a), (c) and (d) (relating to patron access to the rules of the game; gaming guides).

6. Section 601a.9. Table game taxes and gross table game revenue. - Consistency with the intent of the General Assembly; Possible conflict with or duplication of statutes or existing regulation.

Section 13A02(2.1) of the Pennsylvania Race Horse Development and Gaming Act (Act) (4 Pa.C.S. §13A02(2.1)) requires the Board, in consultation with the Department of Revenue (Department), to promulgate regulations that establish the method for calculating gross table game revenue. We have two questions. First, has the Board consulted with the Department as required by the Act? Second, is this regulation consistent with the Department's Pennsylvania Gaming Cash Flow regulations found at 61 Pa. Code Chapter 1001?

Additionally, this section includes references to regulations that have not been promulgated. The subsections are: (c)(1); (c)(4); and (d). It is our understanding that the references are to other Board table game regulations that will be promulgated in the near future. We are concerned that this rulemaking will be finalized before the other regulations are finalized. If this occurs, it could lead to a confusing regulatory environment for those that must comply with the rulemaking. In the Preamble to the final version of this rulemaking, we ask the Board to explain its plan for promulgating all of these regulations in a manner that ensures all references are valid.

CHAPTER 609a. CREDIT

7. Section 609a.1. Definitions. - Clarity and lack of ambiguity.

Chapter 609a uses the terms "casino credit bureau," "consumer credit bureau" and "bank verification service." These terms are not defined in the Act or the Board's regulations. We recommend that these terms be defined under this section of the regulation.

8. Section 609a.3. Application and verification procedures for granting credit. – Reasonableness.

Date the account was opened

Under Subparagraph (c)(4)(ii), a commentator notes that, for security reasons, banking institutions will not provide the date that an account was opened. It suggests additional language that states "or the patron has had a financial relationship with their banking institution for greater than one year." The Board should consider adding this language.

Written documentation

Subparagraph (c)(4)(vii) requires that verifications performed by phone include a request for written documentation of the information obtained as soon as possible. A commentator suggests that written documentation should not be required if the credit clerk spoke with a live person and recorded the name, title, date, and time of the telephone conversation in the patron credit file. Would this less burdensome documentation sufficiently protect the public interest?

9. Section 609a.4. Approval of credit limits. – Reasonableness.

"This Trip Only" or "TTO"

A commentator states that New Jersey state regulations allow a temporary credit increase of 25% once every 30 days known as "This Trip Only" or "TTO." This temporary increase allows the patron to continue a game without the disruption of a full verification of the patron's credit. The commentator believes this is preferable to a permanent increase that could inflate credit limits. The Board should review the New Jersey regulations and consider whether this provision may be appropriate for Pennsylvania regulation.

Subsection (a)

Paragraph (1) specifies job positions that can approve or change credit limits. The regulation includes "...or other key employee in a direct reporting line above the credit manager." A commentator believes the regulation is too restrictive for a facility that does not use a credit department. The commentator would like to add to the list other employees that hold a Key Employee License, such as Director of Slot Operations, Director of Table Games and Assistant General Manager. The Board should either expand the list or explain why the list in the final-form regulation is appropriate.

10. Section 609a.5. Derogatory information; reduction or suspension of credit. – Reasonableness.

Subsection (d) requires a certificate holder to suspend a patron's credit privileges if a check is returned unless the check was returned due to a bank's error. A commentator suggests that certificate holder errors should also be exempted. We agree that the patron should not be penalized if an error occurs that is not the patron's fault. We recommend amending the regulation accordingly.

11. Section 609a.14. Issuance and reconciliation of Counter Checks. – Economic impact; Reasonableness.

Cage cashier or above

Under Subparagraph (c)(1)(ii), a commentator suggests that the attestation of a cage supervisor be replaced with the attestation of a "cage cashier or above." This would allow more flexibility in operations. The Board should consider this amendment.

Slot attendant or above

Similar to the above comment, commentators request more flexibility in Subsection (d) by replacing the term "slot supervisor" with "slot attendant or above." The Board should also consider this amendment.

12. Section 609a.15. Redemption of Counter Checks. – Reasonableness.

Personal check

Under Paragraph (b)(1), a commentator would like the ability to accept any personal check for the redemption of a counter check, provided that the verification process has been completed. The commentator notes that patrons often use multiple accounts and many couples pay for one party's markers. The Board should consider this amendment. The same concern applies to Paragraph 609a.16(a)(1).

Most recently dated check first

Under Subsection (d), a patron that has more than one unredeemed Counter Check must redeem the most recently dated check first. A commentator states the industry standard is first in, first out. Why does the regulation require use of the most recent check rather than the oldest check?

13. Section 609a.17. Deposit of Counter Checks and personal checks substituted for Counter Checks. – Reasonableness.

Paragraph (a)(1) allows 15 days to deposit checks under \$5,000 and Paragraph (2) allows 30 days for checks of \$5,000 or more. A commentator stated it needs the ability to aggregate the total amount of credit issued in one gaming day to count toward these requirements. The commentator gives the example that if a patron takes ten \$2,000 markers in one day, this should count in the aggregate of \$20,000 in one day to allow 30 days until the markers are due, not as ten individual \$2,000 markers due in 15 days. The Board should consider amending the regulation to accommodate this concern.

CHAPTER 611a. TABLE GAME MINIMUM TRAINING STANDARDS

14. Section 611a.2. Minimum proficiency requirements. – Reasonableness; Implementation procedures; Economic impact.

A commentator believes that the additional training required for dealers to deal a different game can be reduced because some of the training a dealer would receive for any game is universal. Specifically, the commentator states that the training required under Section 611a.3 is universal for dealers of any game and should not be additional training for dealers wanting to deal a new game. It requests that Subsection (b) be amended to address this redundancy in training.

Is the training required by Section 611.3a included in the minimum hours of instruction for each game in Paragraph (a)(1)? If so, we agree that requirements, such as training in cardio pulmonary resuscitation (CPR), would be redundant, particularly if the dealer has current CPR certification. The Board should review the minimum hours of instruction in Paragraph (a)(1) and consider amending them to reflect prior training a dealer has already completed.