

FINAL-OMITTED RULEMAKING

PENNSYLVANIA GAMING CONTROL BOARD

58 PA.CODE CHS. 465a.13.

Possession of weapons within a licensed facility

With this final-omitted rulemaking, the Pennsylvania Gaming Control Board (Board) will amend chapter 465a to read as set forth in Annex A.

Omission of Proposed Rulemaking

Under section 204 of the Act of July 31, 1968 (P.L. 769, No.240) and 1 Pa.Code § 7.4 (relating to omission of notice of proposed rulemaking), the Board finds that notice of proposed rulemaking under these circumstances is unnecessary and impractical and is therefore omitted. The Board's justification for utilizing the proposed rulemaking omitted process is that the changes being made in this rulemaking are required by the 2011 legislative amendments to Title 18 (Crimes and Offenses) (See Act 10 of 2011, HB40) which superseded the Board's regulations on the possession of firearms in privately owned licensed casino facilities.

Purpose of the Final-Omitted Rulemaking

This final-omitted rulemaking will eliminate the Board's prohibition on the possession of firearms within a licensed facility to conform with amendments made to Title 18 with the passage of Act 10 of 2011. Prohibiting the possession of firearms is left to the discretion of each licensed facility.

Explanation

In 2008, the Board promulgated regulations prohibiting the possession of weapons, including firearms, within a licensed facility but provided a mechanism by which individuals could request Board approval to do so.

With the passage of Act 10 of 2011, the Legislature amended Pennsylvania's firearms laws and in so doing prohibited Commonwealth agencies from regulating the possession of firearms

in any manner inconsistent with the statutory provisions in Title 18. See 18 Pa.C.S. § 6109(m.3).

Recently, Pennsylvania's Office of Attorney General reviewed for legality the Board's regulation in § 465a.13 on the possession of firearms and advised that in light of the statutory amendments to Title 18, the Board no longer had the authority to limit the possession of firearms in a licensed casino facility by persons who possess a valid permit to carry.

To comply with the statutory amendments, the Board is amending the provisions on possession in § 465a.13 by removing the Board mandated prohibition. The Board added to the rulemaking that a licensee may exercise its common-law right to prohibit the possession of firearms on its property provided that it posts notice of the prohibition at all entrances.

Affected Parties

Slot machine licensees will be impacted by this rulemaking as it is left to the discretion of each operator to prohibit the possession of firearms on its property. On August 21, 2014, all operators were notified that a rulemaking on firearms possession would be forthcoming.

Fiscal Impact

Commonwealth. The Board does not expect that the provisions contained in this rulemaking will have any fiscal impact on the Board or any other Commonwealth agency.

Political Subdivisions. This final-omitted rulemaking will have no fiscal impact on political subdivisions of the Commonwealth.

Private Sector. This final-omitted rulemaking will have no fiscal impact on the private sector provided that if the regulated entities exercise their common-law right to prohibit the possession of firearms on their property, they will be required to post notice of the prohibition at each entrance.

General Public. This proposed rulemaking will have no fiscal impact on the general public.

Paperwork Requirements.

There are no paperwork requirements associated with this rulemaking.

Effective Date

The final-omitted rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

The contact person for questions about this final-omitted rulemaking is Susan A. Yocum, Assistant Chief Counsel, at (717) 346-8324.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on March 11, 2015, the Board submitted a copy of the final-form regulation, proposed rulemaking omitted, to the Independent Regulatory Review Commission (IRRC), the Senate Community, Economic and Recreational Development Committee and the House Gaming Oversight Committee (Committees), and the Attorney General.

Findings

The Board finds that:

(1) The final-omitted rulemaking is necessary for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

(2) The procedures specified in sections 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202) are, under the circumstances, unnecessary.

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(1) The regulations of the Board, 58 Pa.Code Chapter 465a, are to read as set forth in Annex A.

(2) The Chairman of the Board certifies this order and Annex A and shall deposit them with the Legislative Reference Bureau as required by law.

(3) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

William H. Ryan, Jr.
Chairman

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.13. Possession of weapons within a licensed facility.

(a) ~~EXCEPT AS PROVIDED IN SUBSECTION (B), INDIVIDUALS~~
~~Individuals~~, including security department personnel, are prohibited from possessing ~~any deadly weapon~~ **WEAPONS CAPABLE OF PRODUCING DEATH OR SERIOUS BODILY INJURY**, as defined in 18 Pa.C.S. § 2301 (relating to definitions), ~~stun GUNS gun~~ or other **DEVICES** ~~device~~ designed to injure or incapacitate a person within a licensed facility ~~without the express written approval of the Board.~~

(b) The **BOARD'S** prohibition in subsection (a) does not apply to **THE POSSESSION OF FIREARMS CARRIED IN ACCORDANCE WITH THE UNIFORM FIREARMS ACT, 18 Pa.C.S. § 6109, ET SEQ.; HOWEVER, A SLOT MACHINE LICENSEE MAY EXERCISE ITS COMMON LAW RIGHT TO PROHIBIT THE POSSESSION OF FIREARMS IN ACCORDANCE WITH SUBSECTIONS (C) AND (D).**

(c) **A LICENSEE MAY NOT PROHIBIT THE FOLLOWING INDIVIDUALS FROM POSSESSING A WEAPON CAPABLE OF PRODUCING DEATH OR SERIOUS**

**BODILY INJURY, INCLUDING A FIREARM, A STUN GUN OR OTHER DEVICE
DESIGNED TO INJURE OR INCAPACITATE A PERSON WITHIN ITS FACILITY:**

(1) Pennsylvania State Police assigned to its Gaming Enforcement Office.

(2) An on-duty officer or agent of any local, State or Federal law enforcement agency when the officer or agent is acting in an official capacity.

~~(c) To obtain approval for the possession of a deadly weapon, stun gun or other device designed to injure or incapacitate a person within a licensed facility, an individual shall be required to submit a written request to the Board which includes:~~

~~(1) An explanation of the compelling need for the possession of the deadly weapon, stun gun or device designed to injure or incapacitate a person within the licensed facility.~~

~~(2) If the request is for possession of a firearm as defined in 18 Pa.C.S. § 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), proof that the individual holds a valid license to possess the firearm.~~

(d) A slot machine licensee **THAT PROHIBITS INDIVIDUALS FROM POSSESSING FIREARMS** shall post in a conspicuous location at each entrance to the licensed facility signs that **PROVIDE THE PUBLIC**

WITH NOTICE THAT THE POSSESSION OF FIREARMS, WEAPONS CAPABLE OF PRODUCING DEATH OR SERIOUS BODILY INJURY, STUN GUNS AND OTHER DEVICES DESIGNED TO INJURE OR INCAPACITATE A PERSON IS PROHIBITED. ~~may be easily read stating the following:~~

~~The possession of a deadly weapon, stun gun or other device designed to injure or incapacitate a person by any person within this licensed facility without the express written permission of the Pennsylvania Gaming Control Board is prohibited.~~

(E) A SLOT MACHINE LICENSEE THAT DOES NOT PROHIBIT INDIVIDUALS FROM POSSESSING FIREARMS SHALL POST IN A CONSPICUOUS LOCATION AT EACH ENTRANCE TO THE LICENSED FACILITY SIGNS THAT PROVIDE THE PUBLIC WITH NOTICE THAT THE POSSESSION OF WEAPONS CAPABLE OF PRODUCING DEATH OR SERIOUS BODILY INJURY, OTHER THAN FIREARMS CARRIED IN ACCORDANCE WITH THE UNIFORM FIREARMS ACT 18 Pa.C.S. § 6109, STUN GUNS OR OTHER DEVICES DESIGNED TO INJURE OR INCAPACITATE A PERSON IS PROHIBITED.