

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p><b>(All Comments submitted on this regulation will appear on IRRC's website)</b></p>		<p><b><i>INDEPENDENT REGULATORY REVIEW COMMISSION</i></b></p>	
<p>(1) Agency Pennsylvania Gaming Control Board</p>			
<p>(2) Agency Number: 125 Identification Number: 230</p>		<p>IRRC Number: <b>3262</b></p>	
<p>(3) PA Code Cite: 58 Pa.Code §§ 1101a-1120a</p>			
<p>(4) Short Title: Video Gaming</p>			
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Chad W. Zimmermann Assistant Chief Counsel Pennsylvania Gaming Control Board P.O. Box 69060 Harrisburg, PA 17101-8323 Phone: (717) 265-8356/ Fax: (717) 703-2988 Email: <a href="mailto:cwzimmerma@pa.gov">cwzimmerma@pa.gov</a></p> <p>Secondary Contact:</p>			
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input type="checkbox"/> Proposed Regulation <input checked="" type="checkbox"/> Final Regulation <input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation; <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General</p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p><b>This final form rulemaking establishes the regulatory oversight structure for the conduct of video gaming in this Commonwealth.</b></p>			
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p><b>The Pennsylvania Gaming Control Board's general authority is in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 3302.</b></p>			

(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 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.

**This rulemaking provides the regulatory framework for terminal operators to offer video gaming at truck stop establishments in the Commonwealth. These regulations are necessary to provide for the oversight of the video gaming industry and provide a fair and secure environment for patrons who engage in video gaming.**

(11) 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 standards for any of these provisions in this rulemaking.**

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

**This rulemaking should not negatively impact Pennsylvania's ability to compete with other states, as these regulations pertain only to video gaming when physical present in the Commonwealth at licensed truck stop establishments.**

**Video gaming (or gaming similar to Pennsylvania's video gaming) is currently legal in six other states: Georgia, Illinois, Louisiana, Oregon, South Dakota, and West Virginia. Illinois has the largest video gaming industry, allowing up to six VGTs to be placed in truck stop establishments like Pennsylvania, but also any retail establishment with a liquor license or licensed fraternal or veteran organizations. Louisiana allows VGTs to be placed in similar locations as Illinois, but only allows video poker on the VGTs, not slots-style games. Oregon's video lottery terminals (VLTs) have been allowed to offer slots-style games since 2015. South Dakota only allows VLTs to be placed in bars and taverns, but its VLTs can offer poker, keno, video blackjack, and bingo. West Virginia is similar to Illinois, in that VLTs can be placed in bars, restaurants, and fraternal organizations. However, each establishment is limited to 10 VLTs. Georgia allows video gaming through "coin operated amusement machines", or COAMs, which can be located in gas stations and convenience stores. Unlike Pennsylvania's VGTs, a player may not win cash from gaming on a COAM, but he or she may redeem credits won for lottery tickets or merchandise for sale in the store in which he or she is gaming.**

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

**These regulations will not directly affect any other regulations of another state agency.**

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. (“Small business” is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

**This set of final form regulations is based upon the temporary regulations for video gaming previously adopted by the Board (#125-211, Title 58, Chapters 1101 – 1120) and the proposed rulemaking adopted in February 2020. In the Preamble for the temporary regulations which was published in the *Pennsylvania Bulletin*, the Board requested comments from interested parties in the video gaming industry and from the general public. The comments received were reviewed and taken into consideration when preparing the proposed regulations. No comments were received on the proposed rulemaking.**

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

**Any entity that wishes to be licensed as a terminal operator, establishment, VGT supplier, VGT manufacturer, gaming service provider, and a principal or key employee of one of the aforementioned entities will be affected by this regulation, as these are the entities subject to licensure under the regulations. The licensed entities and individuals may only offer video gaming if done in accordance with the requirements of the regulations.**

**Under the current temporary regulatory scheme, there are currently 15 licensed or conditionally licensed terminal operators, 70 licensed or conditionally licensed establishments, 2 licensed or conditionally licensed VGT suppliers, 7 licensed or conditionally licensed VGT manufacturers, 672 licensed or conditionally licensed VGT gaming employees, 123 licensed or conditionally licensed VGT principals and principal entities, 6 licensed VGT key employee, 58 licensed or conditionally licensed VGT principal qualifier and qualifier entities, 15 licensed or conditionally licensed VGT key employee qualifiers, and 3 licensed or conditionally licensed VGT procurement agents or procurement agent entities. It is estimated that a number of the licensed terminal operators and most of the establishment licensees are small businesses as defined in the Regulatory Review Act, but that number is not definitely known.**

**The general public who engages in video gaming at truck stop establishments will also be affected by the provisions of the regulations, as the regulations set forth the manner and locations in which video gaming may be conducted.**

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

**As stated above, individuals and entities who wish to participate in the offering of video gaming will be required to comply with the regulations. The current numbers of licensed or conditionally licensed individuals or entities is listed above. Additionally, individuals in the general public will be required to comply with the provisions of the regulation, as video gaming may only be conducted at licensed establishments and in a manner consistent with the Board’s requirements.**

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

**It is not anticipated that this rulemaking will have a negative financial or economic impact on the regulated community or other individuals. These regulations provide the regulatory framework for video gaming which will generate tax revenue for the Commonwealth and provide a fair and secure environment for patrons to engage in video gaming.**

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

**This rulemaking will provide all necessary oversight for video gaming in the Commonwealth. These regulations establish the standards that all entities in the video gaming industry must comply with and will help to provide a fair and secure environment for interactive gaming. These benefits outweigh any costs involved, and it is not anticipated there will be any adverse effects.**

(19) 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.

**It is anticipated that there will be minimal costs to the regulated community, stemming from the initial costs of licensure, the costs of implementation, and renovation of video gaming areas in existing truck stops. Any entity currently offering video gaming under the temporary regulations have already been accrued and paid these costs, and therefore, there would be no additional costs to those entities.**

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

**This rulemaking will have no fiscal impact on local governments.**

(21) Provide a specific estimate of the costs and/or savings to the **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.

**The Board expects that this proposed rulemaking will have a relatively small fiscal impact on the Board and other Commonwealth agencies, which primarily is the result of the need for some additional personnel needed to process applications and review, as well as to monitor and regulate the conduct of video gaming. Most of the additional duties will be absorbed by existing Board staff. The costs of the proposed regulations will be paid for by an assessment against the video gaming revenue as determined by the Department of Revenue.**

(22) For each of the groups and entities identified in items (19)-(21) above, 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.

**Any entity or individual wishing to participate in the offering of video gaming needs to file an application with the Board. Once licensed and prior to commencement of video gaming operations, a terminal operator or establishment licensee must file a set of internal controls with the Board, which set forth the procedures the entity will follow when offering video gaming.**

(22a) Are forms required for implementation of the regulation?

**Applications for licensure are required.**

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

**The applications for licensure are voluminous, and can be found under the Licensure tab at the Board’s website: <https://gamingcontrolboard.pa.gov>. The self-exclusion web portal to allow individual’s to self-exclude, and the forms required, can be found at <https://responsibleplay.pa.gov/>.**

(23) 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.

	<b>Current FY Year</b>	<b>FY +1 Year</b>	<b>FY +2 Year</b>	<b>FY +3 Year</b>	<b>FY +4 Year</b>	<b>FY +5 Year</b>
<b>SAVINGS:</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>Regulated Community</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Local Government</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>State Government</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Total Savings</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>COSTS:</b>						
<b>Regulated Community</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Local Government</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>State Government</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Total Costs</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	N/A	N/A	N/A	N/A	N/A	N/A

<b>Local Government</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>State Government</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Total Revenue Losses</b>	N/A	N/A	N/A	N/A	N/A	N/A

(23a) Provide the past three year expenditure history for programs affected by the regulation.

<b>Program</b>	<b>FY -3</b>	<b>FY -2</b>	<b>FY -1</b>	<b>Current FY 2020/2021</b>
PGCB Overall Budget	\$41,665,000	\$46,153,000	\$46,067,000	\$43,357,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.

**While some of the entities involved in the video gaming industry may qualify as a small business, in accordance with the United States Small Business Administration's Small Business Size Regulations, under 13 CFR Ch. 1 Part 121, it is not anticipated that these regulations will have an adverse impact on any small business.**

- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.

**It is not anticipated that there will be any significant reporting, recordkeeping or other administrative costs associated with this regulation, as the reporting and recordkeeping requirements are likely to be provided internally by current staff of the entities involved in the offering of video gaming.**

- (c) A statement of probable effect on impacted small businesses.

**As stated above, it is not anticipated that there will be any negative effect or impact on small businesses.**

- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

**Not applicable.**

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

**No special provisions have been added.**

(26) 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.

**No alternative regulatory approaches were considered. This regulation reflects the least burdensome means of maintaining regulatory oversight of video gaming.**

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

**As stated above, there is no adverse impact on small businesses in the Commonwealth.**

(28) 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.**

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

- |   |                                     |
|---|-------------------------------------|
| A. The length of the public comment period:   | <b>30 days</b>                      |
| B. The date or dates on which any public meetings or hearings will be held:               | <b>Held April 21, 2021</b>          |
| C. The expected date of delivery of the final-form regulation:                            | <b>2<sup>nd</sup> Quarter, 2021</b> |
| D. The expected effective date of the final-form regulation:                              | <b>Upon final publication</b>       |
| E. The expected date by which compliance with the final-form regulation will be required: | <b>Upon final publication</b>       |

F. The expected date by which required permits, licenses or other approvals must be obtained:

**Ongoing**

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

**No formal review schedule has been established. Instead, the Board consistently reviews its regulations and proposes amendments as the need arises.**