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INDEPENDENT REGULATORY REVIEW COMMISSION

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

July 20, 2011

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

Re: Regulation #125-145 (IRRC #2894)
 Pennsylvania Gaming Control Board
 Accounting and Internal Controls; Commencement of Slot and Table Game Operations

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 #125-145 (IRRC #2894)

Accounting and Internal Controls; Commencement of Slot and Table Game Operations

July 20, 2011

We submit for your consideration the following comments on the proposed rulemaking published in the May 21, 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 401a. PRELIMINARY PROVISIONS

1. Section 401a.3. Definitions. – Reasonableness; Need; Implementation procedures; Clarity.

The definition of “complimentary” is being amended to include the following language: “The term does not include points that are awarded to patrons of a licensed facility who are members of the licensed facility’s player rewards program or credits for free slot play.” The Preamble states that credit for free play or promotional play may be deducted from the total cash or cash equivalent wagers when calculating gross terminal revenue. However, the value of complimentaries, including cash and noncash gifts or reimbursements, may not be deducted from gross terminal or gross table game revenue. What statutory or regulatory provisions provide guidance on complimentaries as they pertain to calculating either gross terminal revenue or gross table game revenue? In addition, would free play or promotional play be deducted from the total cash or cash equivalent wagers when calculating gross table game revenue?

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS**2. Section 465a.7. Complimentary services or items. – Reasonableness; Need; Implementation procedures.***Subsection (a)*

This subsection requires licensees to develop internal controls for complimentary services and to submit those controls to the Board for approval. A commentator believes that this requirement is unnecessary and burdensome. What is the need for requiring all operators to submit their internal controls for complimentary services to the Board for approval?

Subsection (b)

Subsection (b)(4) requires that procedures for auditing complimentary services be followed by the licensee's internal audit department. A commentator believes that other departments, such as an accounting department, could perform the necessary functions. Has the Board considered this option?

3. Section 465a.9. Surveillance system; surveillance department control; surveillance department restrictions. – Fiscal impact; Reasonableness; Need; Clarity.

Under Subsection (e), surveillance systems in licensed facilities must continuously record 11 enumerated locations, individuals, activities or transactions. Subsection (e)(10) requires recordings of operations for "automated bill breaker machines, automated gaming voucher and coupon redemption machines, automated jackpot payout machines and automated teller machines." The proposed regulation is being amended to include the following language: "Coverage must include a camera contained within the machine that records the face of each patron transacting business at the machine."

The majority of comments from the regulated community object to this new language for three reasons. First, installation of these cameras is unnecessary as these transactions are already recorded by the licensee's existing surveillance camera network. Second, commentators argue that outside vendors would be responsible for maintaining the functionality of these cameras, thereby subjecting the licensee to liability for possible regulatory violations beyond their control. Finally, the commentators contend that such installation would impose a significant financial burden on licensees. For example, two approved Pennsylvania gaming service providers and manufacturers (providers) state that refitting their existing kiosks in licensed facilities with these cameras will alone cost approximately \$750 per kiosk.

We ask the Board to explain the need for this additional requirement and to provide a detailed fiscal analysis of the costs imposed on licensees due to implementation of these provisions.

In addition, the providers asked if the term "machine" is specific to automated teller machines or is meant to include all the machines listed in the existing regulation. We recommend that this be clarified in the final-form regulation.

4. Section 465a.11. Slot machine licensee's organization; jobs compendium. - Need; Implementation procedures; Clarity.

This section explains the requirements for the organization charts and jobs compendium of a slot machine licensee. We raise two issues.

First, in Subsection (b)(1)(v), what does the Board consider to be "clandestine" surveillance? The final-form regulation should clarify this term.

Second, Subsection (b)(6) states that: "the employee responsible for the supervision and issuance of credit shall report **directly** to the director of finance." (Emphasis added.) A commentator suggests that it is more appropriate for this employee to report to the Credit Manger. The Board should consider allowing the report to be delivered to the Credit Manager, or explain why it is necessary to limit this reporting to the director of finance.

5. Section 465a.17. Bill validators, slot cash storage boxes and table game drop boxes. - Reasonableness; Need; Clarity.

Subsection (f) describes table game drop boxes for non-electronic table games. A commentator questioned why this subsection does not include provisions relating to match play coupons as the temporary regulation does. The final-form regulation should explain the need for this variation between the temporary and proposed rulemaking.

6. Section 465a.18. Transportation of slot cash storage boxes and table game drop boxes to and from the gaming floor; storage. - Reasonableness; Need; Implementation procedures.

Subsection (d)(3) explains that the required method for transporting an emergency slot cash storage box to the count room is a trolley. A commentator indicates that normally the drop box is carried to the count room. Why is it necessary to require use of a trolley?

7. Section 465a.19. Acceptance of tips or gratuities from patrons. – Reasonableness; Need; Implementation procedures; Clarity.

This section explains the process for acceptance of tips or gratuities from patrons by employees of a licensed facility. We raise two issues.

First, Subsection (h) indicates that a poker dealer must take the transparent lock box to the cage cashier at the end of the dealer's shift. However, a commentator contends that more flexibility is needed, and dealers should not be limited to taking the boxes only at the end of their shift. The final-form regulation should explain the need for this requirement.

Second, in Subsection (i), the Board should explain what types of "procedures" the certificate holder must develop for reporting tips to the Internal Revenue Service. Are the "procedures" to be included in the internal controls of a licensed facility?

8. Section 465a.20. Personal check cashing. – Implementation procedures.

Subsection (b)(6) includes references to regulations that have not been promulgated. This subsection references §§ 609a.15 (c) and 609a.16 (b), with an Editor's Note that states that: "Chapter 609a will be adopted on or before the date of final adoption of this proposed rulemaking." We are concerned that this rulemaking will be finalized before Chapter 609a is 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.

9. Section 465a.30. Waiver of requirements. – Clarity.

In both Subsections (a),(b) and (b)(2), existing language that requires various controls and standards be published in the *PA Bulletin* and posted on the Board's website was removed from the proposed regulation. Why was this language deleted? Similar language was also deleted from Section 467a.2.

10. Section 465a.35. Personnel assigned to the operation and conduct of table games. – Reasonableness; Need; Implementation procedures.

This section lists the types of employees licensees must have available to conduct table games. Commentators recommend more staffing flexibility be available in this section. For example, they suggest that pit clerks should not be mandatory personnel. They also suggest various revisions to the amount of tables that floorpersons and pit clerks can supervise. Would the integrity of

gaming be compromised if these changes were made to the final-form rulemaking?

11. Section 465a.36. Table inventories. – Reasonableness; Need; Implementation procedures.

Subsection (c) requires table inventory slips to be created even for table games that are not in use. What is the need for this provision? We recommend that the Board either explain the need for inventory slips for unused table games or delete this requirement from the final-form regulation.

12. Section 465a.37. Procedures for opening table games. – Reasonableness; Implementation procedures.

In Subsection (h), if there is a discrepancy greater than \$10 between the amount of table game chips and plaques counted and the amount recorded, then the security department must investigate. Should the licensed facility's surveillance department also participate in these investigations?

13. Section 465a.39. Procedures for removing value chips, coins and plaques from gaming tables. – Reasonableness; Need; Implementation procedures; Clarity.

This section establishes procedures for removing monetary play pieces from table games in order to receive credit. We raise three issues.

First, Subsection (c) is unclear. This subsection requires a "Credit Request Slip" to remain on the table. However, a commentator notes that this slip is not prepared when a licensed facility uses an electronic system to generate table credits. We recommend that the final-form clarify the procedures for the removal of "Credit Request Slips."

Second, without a "Credit Request Slip," how will the Board audit and verify the chip removal? The final-form regulation should clarify this issue.

Finally, Subsection (h)(1) states that when a Credit Slip is prepared manually: "Each series of Credit Slips must be a three-part form and be inserted in a locked dispenser...." A commentator suggests that licensed facilities be permitted to use a four-part form, which would give the chip bank access to a copy of the form that can be used to audit or balance the inventory. The final-form regulation should explain the need for limiting manual credit slips to a three-part form. Similar concerns apply to Section 465a.38(h)(1), which requires three-part forms for manual fill slips.

CHAPTER 467a. COMMENCEMENT OF SLOT AND TABLE GAME OPERATIONS

14. Section 467a.1. Gaming floor plan. – Implementation procedures; Clarity.

In Subsection (a)(2), floor plans must be certified by an architect licensed to practice in the Commonwealth “unless Board staff indicates otherwise.” Under what circumstances would the Board allow a deviation from this requirement? The final-form regulation should clarify this issue.