

PAUL I. CLYMER, MEMBER
ROOM 216, SPEAKER MATTHEW J. RYAN
LEGISLATIVE OFFICE BUILDING
PO BOX 202145
HARRISBURG, PENNSYLVANIA 17120-2145
PHONE: (717) 783-3154
FAX: (717) 705-1854

311 N. SEVENTH STREET
PERKASIE, PA 18944
PHONE: (215) 257-0279
FAX: (215) 257-6350



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

GAMING OVERSIGHT,
REPUBLICAN CHAIRMAN
CAPITOL PRESERVATION,
CHAIRMAN
STATE GOVERNMENT

July 12, 2007

Anne LaCour Neeb, Executive Director
Pennsylvania Gaming Control Board
Strawberry Square
Verizon Tower, 5th Floor
Harrisburg, PA 17106-9060

Re: Regulation #125-61
Pennsylvania Gaming Control Board
General Revisions; Applications; Licensed Entity Representatives; Manufacturer
Licenses; Supplier Licenses; Horsemen's Organizations; Labor Organizations; Junket
Enterprised; Management Companies

Dear Ms. Neeb:

I submit for your consideration the following comments for consideration on the proposed regulation #125-61, which converts Chapters 421a, 423a, 425a, 427a, 431a, 436a, 438a, 439a, and 440a of the PGCB's temporary regulations to permanent regulations. The regulation was published in the May 12th edition of the *Pennsylvania Bulletin*. The suggestions I submit are:

§ 421a.1(c)(2) - This waiver could be in conflict with 4 Pa.C.S. § 1206(f), which provides as follows:

“(f) Confidentiality of information.--All information submitted by an applicant pursuant to section 1310(a) (relating to slot machine license application character requirements) or obtained by the board or the bureau as part of a background investigation from any source shall be considered confidential. Except as provided in section 1517(f) (relating to investigation and enforcement), the information shall be withheld from public disclosure in whole or in part, except that any information shall be released upon the lawful order of a court of competent jurisdiction or, with the approval of the Attorney General, to a duly authorized law enforcement agency or shall be released to the public, in whole or in part, to the extent that such release is requested by an applicant and does not otherwise contain confidential information about another person. **The board may not require any applicant to waive any confidentiality provided for in this**

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subsection as a condition for the approval of a license or any other action of the board. Any person who violates this subsection shall be administratively disciplined by discharge, suspension or other formal disciplinary action as the board deems appropriate.” (*emphasis added*).

By requiring applicants to waive liability as per the regulation, the Board is, in effect, requiring an applicant to waive confidentiality provisions.

§ 421a.1(f) - An applicant/renewal applicant should be required to notify the board of any changes in information supplied to the Board; otherwise, an applicant/renewal applicant is put in the awkward position of having to determine whether any particular change would impact on their application or license. Further, the language in § 421a.1(f) appears to be in conflict with § 423a.1(e), which requires applicants to notify the Board regarding any changes.

§ 421a.1(i) - Does this refer monetary liability or “Joint and Several” administrative liability for the license? If you impose a \$500 fine against two licensees, does that mean the board can simply collect \$1,000 from one of them?

§ 421a.4(b) - The applicant or holder who makes the request should reimburse the board for the cost of the investigation. This subsection should be reworded to clarify this duty. The phrase “upon request of the board” should be deleted, since it implies that reimbursement is discretionary.

§ 423a.1(h) – This provision deals with documents, written in a language other than English, submitted as part of the application process. The last sentence (h) provides that the Board may accept, at its discretion, “an English summary of a document” rather than a translation. This is unacceptable, since the Board would be unaware if any summary contained all pertinent information.

§423a.4(a) – There be an absolute limit on any time period to cure deficiencies in applications, so as not to suspend the process indefinitely.

§ 423a.5(e) – This should this be clarified to add “at the request of the applicant,” otherwise, it would theoretically allow for arbitrary decisions by the Board.

§ 423a.7(c) – It appears this is not consistent with the process for withdrawal of an application with prejudice under § 423a.5(d)(1). It is unclear why an applicant may file a petition for permission to apply for a license two years after a denial under § 423a.7(c), but there is no similar abbreviated period under § 423a.5(d)(1).

§ 427a.2(a)(4) - What does “as determined by the board” mean? Does this refer to who has to submit an application or what information needs to be supplied?

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§ 427a.2(a)(6)(vii) – There may be a need for clarity. What if an action for divorce is subsequently withdrawn? Does this lead to potential for the filing of a divorce action during the application process simply to avoid the limitation? In the alternative (assuming the divorce is finalized), the spouse applying for a license could, as part of the divorce settlement, obtain an otherwise prohibited interest. This could be in conflict with both 4 PA.C.S. § 1512(b) and 4 PA C.S. § 1201(n).

§ 427a.5(a)(2) - The manufacturer licensee should report any change in circumstances and allow the board to determine how this might affect the license; otherwise, a licensee is put in the awkward position of having to determine whether any particular change would impact on their license.

§ 427a.5(d) - The regulation should use semi-colons for clarification, e.g. “:batteries; hardware, including hinges, screws, bolts and custom handles; light bulbs; . . .”

§ 431a.2(a)(4)- There is a need for clarification regarding the phrase “as determined by the board”, see discussion above concerning § 427a.2(a)(4)

§ 431a.2(a)(6)(vii) - An issue is created by the divorce language, see discussion above concerning § 427a.2(a)(6)(vii)

§ 431a.4(d)(2) – Any change in circumstances should be reported, see discussion above concerning § 427a.5(a)(2).

§ 431a.4(g) – The regulation should use semi-colons for clarification, see discussion above concerning § 427a.5(d)

I have taken earnestly the role of reviewing regulations to make certain the PGCB is consistent with legislative intent of Act 135 and Act 71; and in the best interest of the public. Thank you for your consideration on these suggestions.

Sincerely,



PAUL I. CLYMER, Republican Chairman
House Gaming Oversight Committee

cc: Kim Kaufman, Executive Director, Independent Regulatory Review Commission
Scott Schalles, Independent Regulatory Review Commission ✓
Richard Sandusky, Pennsylvania Gaming Control Board
Honorable Harold James, Majority Chairman, House Gaming Oversight Committee
Members of the House Gaming Oversight Committee