

## DISCLAIMER

The Pennsylvania Department of Revenue has prepared this “Primer” on Pennsylvania’s Local Option Small Games of Chance Act, 1988 P.L. 1262, No. 156 (72 P.S. §§ 311, et seq.), for review and use by the general public. The Primer is for informational purposes only. Nothing contained in the Primer should be considered legal advice or the official position or policy of the Department of Revenue. Further, no information contained in this document shall be binding on the Department of Revenue, the County Treasurers or any law enforcement official or agency (as defined by the Act) of the Commonwealth of Pennsylvania regarding the administration or enforcement of the Local Option Small Games of Chance Act. Any person or entity with legal questions regarding the Local Option Small Games of Chance Act should review the provisions of the Act for guidance or consult private legal counsel.

# COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF REVENUE SMALL GAMES OF CHANCE PRIMER 2011

## OVERVIEW

The Pennsylvania Crimes Code provides that all forms of gambling are illegal unless the Pennsylvania Legislature specifically authorizes the gambling activity by statute.

The elements of gambling are: 1) the payment of a consideration or fee, 2) for the chance to win a prize, 3) the winner of which is determined by chance. If these three elements are present, the activity is “gambling”.

Currently, the authorized and only legal forms of gambling in Pennsylvania are:

1. Those gambling activities conducted pursuant to the Race Horse Industry Reform Act.
2. Pennsylvania Lottery (including Powerball and Mega Millions).
3. Bingo conducted pursuant to the Bingo Law.
4. Those gambling activities conducted pursuant to the Local Option Small Games of Chance Act.
5. Those gambling activities conducted pursuant to the Pennsylvania Race Horse Development and Gaming Act (slots and table games).

The Pennsylvania Local Option Small Games of Chance Act (the Act), 10 P.S. §§ 311-327, was passed in 1988. The Act allows certain nonprofit organizations, known as “eligible organizations,” to conduct small games of chance for the purpose of raising funds for the promotion of “public interest purposes”. The Department of Revenue promulgated regulations pursuant to the Act that were adopted and appear at 61 Pa. Code § 901.1, et seq.

The Local Option Small Games of Chance Act is quite specific regarding the games of chance that are allowed and the manner in which they may be conducted. A licensed eligible organization may conduct five (5) types of games of chance under the Act. They are:

1. Punchboards
2. Pull-Tabs
3. Raffles
4. Daily Drawings
5. Weekly Drawings

## **ELIGIBLE ORGANIZATIONS**

An eligible organization is one of the following types of entities:

1. Charitable Organization: a not-for-profit group or body of persons which is created and exists for the purpose of performing a humane service; promoting the good and welfare of the aged, poor, infirm or distressed; combating juvenile delinquency; or advancing the spiritual, mental, social and physical improvement of young men and women. (Includes YMCAs and YWCAs.)

2. Religious Organization: a not-for-profit group or body of persons which is created and exists for the predominant purpose of regularly holding or conducting religious activities or religious education, without pecuniary benefit to any officer, member or shareholder except as reasonable compensation for actual services rendered to the organization.

3. Fraternal Organization: a nonprofit organization within this Commonwealth which is created and carried on for the mutual benefit of its members, has a limited membership and representative form of government and is a branch, lodge or chapter of a national or state organization.

4. Veterans Organization: any congressionally chartered organization within this Commonwealth, or any branch or lodge or chapter of a nonprofit national or State organization within this Commonwealth, the membership of which consists of individuals who were members of the armed services or armed forces of the United States. The term shall also include home associations.

5. Club: a club, as defined in Pennsylvania's Liquor Code (47 P.S. § 1-102), that qualifies as an exempt organization under section 501(c) or 527 of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 501(c) or 527), and is licensed to sell liquor at retail and has a charitable, religious or civic purpose or is organized to benefit a political party.

6. Civic and Service Organization: Any Statewide or branch, lodge or chapter of a nonprofit national or State organization which is authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a civic or service purpose within this Commonwealth, which shall have existed in this Commonwealth for one year. The term also means a similar local nonprofit organization, not affiliated with a national or State organization, which is recognized by a resolution adopted by the governing body of the municipality in which the organization conducts its principal activities. The term shall include:

- a. bona fide sportsmen's and wildlife associations, federations or clubs (statewide or local in nature),
- b. volunteer fire companies,
- c. volunteer rescue squads,
- d. volunteer ambulance associations,
- e. bona fide senior citizens organizations,
- f. nonprofit organizations which are established to promote and encourage participation and support for extracurricular activities within the established primary and secondary public, private and parochial school systems.
  - Such organizations must be recognized by a resolution adopted by the appropriate governing body (for example, the school board of the

school district, the board of trustees of the private school, or the Archdiocese of the parochial school).

Any entity listed above must be in existence and fulfilling its purpose for one (1) year prior to the date of its application for a small games of chance license.

### Auxiliary Groups

An auxiliary group within an eligible organization may conduct small games of chance using the license of the eligible organization so long as the auxiliary group is listed on the eligible organization's license application. The licensing authority may not charge an additional fee for such use. Such use does not constitute a separate license. The auxiliary group uses the license in lieu of the eligible organization and all proceeds are collected for the eligible organization. Therefore, all prize limits and restriction are applicable and the games conducted by the auxiliary group are considered as if they were conducted by the eligible organization.

The term auxiliary group shall not include branches, lodges or chapters of a statewide organization.

## **USE OF PROCEEDS**

The proceeds from the operation of small games of chance may be used only for public interest purposes or for the purchase of small games of chance. “Public interest purposes” are:

1. Benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical, emotional or social well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of, and devotion to, the principles upon which this nation was founded; or
2. Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; or
3. Lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or
4. Improving, expanding, maintaining or repairing real property owned or leased by an eligible organization and used for purposes specified in (1) - (3) above.

“Public Interest Purposes” do not include the erection or acquisition of any real property, unless the property will be used for purposes specified in (1) - (4) above.

## PRIZE LIMITS

### General Limits

1. All games of chance, except weekly drawings, are governed by the following two prize limits:
  - a. A prize for a single chance in any game may not exceed \$500.00.
  - b. An eligible organization may not award prizes during its operating week (the 7 consecutive, reoccurring operating or nonoperating days reported on the organization's license application) with a combined value, in cash or merchandise, of more than \$5,000.00.
2. Weekly drawings are only limited by (1)(b) above.
  - Note: generally, no more than \$3,500.00 in daily drawing prizes may be awarded during an operating week. Reason: Only one daily drawing may be conducted per day and the prize may be no greater than \$500.00. (\$500.00 per day x 7 days = \$3,500.00).

### Prize Limit for Raffles

No more than \$5,000.00, in cash or merchandise, may be awarded in raffles during a calendar month.

### Daily and Weekly Drawings

A licensed organization may not conduct daily drawings during an operating week in which it conducts a weekly drawing.

### Prize Limit Examples:

1. **Compliance.** During one operating week, a licensed eligible organization awards pull-tab prizes of \$2,000.00, daily drawing prizes totaling \$1,500.00 and punchboard prizes of \$1,000.00. No individual prize is awarded with a value greater than \$500.00. This eligible organization has complied with the prize limitations. No prize was awarded greater than \$500.00 and the total prizes for the operating week were only \$4,500.00.

2. **Non-Compliance.** A licensed eligible organization conducts five daily drawings during one operating week. The daily drawings are the only games of chance conducted by the organization during the operating week. The prizes awarded are as follows:

- Day 1: \$300.00
- Day 2: \$150.00
- Day 3: \$525.00
- Day 4: \$500.00
- Day 5: \$200.00

Because the total weekly prizes awarded are only \$1,675.00, the organization complies with the weekly prize limit. However, the organization has violated the individual prize limit by awarding a prize in excess of \$500.00 on Day 3.

3. **Non-Compliance.** During the first operating week of the month, an organization conducts daily drawings and awards prizes totaling \$2,000.00. No individual prize is over \$500.00.

During the second operating week, the organization holds a raffle drawing and awards raffle prizes worth a total of \$5,000.00.

During operating week 3 the organization conducts another raffle drawing and awards a \$500.00 prize. It also conducts daily drawings and awards total prizes of \$1,000.00 and a weekly drawing and awards a prize of \$1,000.00. No individual prize is worth more than \$500.00.

The organization has committed two violations of the prize limitations in the third operating week. By awarding the second raffle prize of \$500.00, the organization exceeded the \$5,000.00 monthly prize limit on raffles. Further, the organization operates daily drawings during the same week it conducts a weekly drawing.

### Prize Limit Exceptions

#### 1. Special Raffle Permits

a. A licensed eligible organization may apply for and receive up to two special raffle permits per year (volunteer fire, ambulance and rescue organizations may apply for any receive up to three special raffle permits). Only one raffle may be conducted under each permit.

Note: Organizations with limited occasion licenses are not eligible for special raffle permits.

b. Prizes awarded in special permit raffles may exceed \$500. The total value of all prizes awarded under special permits in a calendar year may not exceed \$100,000.

#### 2. Daily Drawings

a. Daily drawings are subject to the general prize limitations. There are two exceptions to this rule, however.

i. **Carryover Prizes:** A daily drawing prize may exceed \$500 and will not be included in the \$5,000 weekly prize limit if it is the result of a carryover from a previous drawing in which a winner was not selected from the eligible entrants. In order for this exception to apply, the carryover cannot result from the failure to conduct a scheduled drawing. Further, each chance in the carryover drawing must have been sold for no more than \$1 and no more than one chance may have been sold to an eligible participant.

ii. **100% Pay Outs:** If a daily drawing is set up to pay out 100% of the revenues generated, the prize will not be included in calculating the organization's weekly prize limit. (Note: Prizes awarded in 100% pay out drawings may not exceed \$500 unless the prize is also from a carryover drawing).

### 3. Weekly Drawings

a. Weekly drawings are not restricted by the \$500 individual prize limitation. They are restricted by the \$5,000 per week prize limitation. There are two exceptions to this rule, however.

Exceptions: Carryover and 100% Pay Out Drawings

If a weekly drawing prize is awarded as the result of a carryover from a previous drawing in which a winner was not selected from the eligible entrants or as the result of a drawing set up to award 100% of the proceeds from the drawing, the prize shall not be included in calculating the eligible organization's weekly prize payments.

## GAME SUMMARY

The following information briefly explains each small game of chance as well as a summary of some of the requirements and restrictions a licensed organization must follow. **It should by no means be considered comprehensive or all-inclusive.**

### **1. PUNCHBOARDS**

A punchboard is defined in the Act as a board, placard, or other device marked off in a grid or columns, in which each section contains a hidden number or numbers, or other symbol, which determines the winning chances.

A punchboard must comply with the following:

- a. At least 60% of the maximum potential gross receipts from the sale of plays on each punchboard must be payable as prizes;
- b. A prize on an individual punch may not exceed \$500 in value; and,
- c. The flare advertising prizes available from the operation of the punch board must be made by the manufacturer and may only be altered by the eligible organization to indicate that merchandise of equivalent value will substitute for a cash prize; and,
- d. Only one flare may be displayed and must be on the face or on top of the punchboard; and,
- e. The flare must display the winning numbers or symbols for all prizes in the amount of \$5.00 or more, contain the manufacturer's name, logo, and the cost per play; and,
- f. The punchboard must be purchased from a distributor licensed by the Pennsylvania Department of Revenue.

### **2. PULL-TABS**

A pull-tab is defined in the Act as a single folded or banded ticket, or a strip ticket or card with the face covered to conceal one or more numbers or symbols, where one or more of each set of tickets or cards has been designated in advance as a winner.

A pull-tab deal must comply with the following:

- a. At least 65% of the maximum potential gross receipts from the sale of plays shall be payable as prizes;
- b. A prize on an individual pull-tab may not exceed \$500; and,
- c. An individual pull-tab deal may not contain more than 4,000 individual pull-tabs; and,
- d. The flare advertising prizes available from the pull-tab deal must be made by the manufacturer and may only be altered by the eligible organization to indicate that

merchandise of equivalent value will substitute for a cash prize; and,

- e. Only one flare may be displayed for each deal and must be placed on the face or on the top of the dispenser used to dispense pull-tabs, and,
- f. The flare must display the winning numbers or symbols for all prizes in the amount of \$5.00 or more, contain the manufacturer's name or logo, and cost per play; and,
- g. The pull-tab deal must be purchased from a distributor licensed by the Pennsylvania Department of Revenue.

### **3. RAFFLES**

A raffle is defined by the Act as a game in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing of corresponding ticket stubs to take place at a location and date printed on the ticket.

There are two types of raffles allowed under the Act: 1) a regular raffle; and, 2) a raffle conducted through a special raffle permit. They differ only in amount of prizes that can be awarded and the number of raffles that may be held per calendar year. Raffle winners may also be determined by reference to drawings conducted by the Department pursuant to the State Lottery Law, (72 P.S. § 3761-101, et seq.).

Both types of raffles must comply with the following:

- a. Tickets must have a detachable stub, be consecutively numbered and be accounted for separately through the use of a logbook showing to whom the tickets were given to be sold. The ticket stub shall bear a duplicate number corresponding to the numbers on the ticket and contain the purchaser's name, address and telephone number. Both parts shall be imprinted with sequential numbers commencing with "1" through the maximum number of tickets to be sold; or in the case of a raffle where the winner is determined by a drawing of the State Lottery, the universe of eligible ticket numbers shall correspond to the universe of eligible numbers in the State Lottery drawing.
- b. The ticket shall contain the date, time and location of the drawing, the name of the licensee and license number (special permit number where applicable), price of the ticket and prizes to be awarded;
- c. The drawing must be conducted openly and in plain view of the players present;
- d. Raffle tickets may be sold at locations other than the licensee's premises but can only be sold in municipalities which have approved the use of small games of chance. There are notice requirements that must be met to sell outside the licensing county;
- e. A purchaser does not have to be present at the drawing to win; and
- f. Raffle tickets need not be purchased from licensed distributors.

In a regular raffle the maximum individual prize is \$500. No more than \$5,000 in cash or merchandise may be awarded through regular raffles in a calendar month.

A licensed organization may apply for a special permit. Only one raffle may be conducted under each special permit. A licensed eligible organization may receive no more than two special permits in any license year with the exception of volunteer fire, ambulance and rescue organizations, which may receive three. The total value of all raffle prizes awarded under all special permits may not exceed \$100,000 in a calendar year.

#### **4. DAILY DRAWINGS**

A daily drawing is defined by the Act as a game in which a bona fide member of an eligible organization selects or is assigned a number for a chance at a prize with the winner determined by a random drawing to take place at the licensed organization's premises during the same operating day. Daily drawing winners may be determined with the aid of a passive selection device or reference to the State Lottery drawings. The ticket may not cost more than \$1.00, nor may more than one chance be sold to a member in the same operating day

Additional requirements for daily drawings include:

- a. Tickets may be purchased only by bona fide members;
- b. Tickets may be sold only on the licensed premises;
- c. The purchaser does not have to be present at the drawing to win;
- d. Prizes awarded in a daily drawing may exceed the \$500 per prize and \$5,000 per week prize limits if the prize is the result of a carryover of a drawing that resulted from the winning number in such drawing not being among the eligible entrants that day. A prize may not exceed the prize limits when there is a failure to conduct a drawing on an operating day or for a drawing in which prizes were sold in excess of \$1.00 or for a drawing in which more than one chance is sold to an eligible participant;
- e. A daily drawing prize may exceed the \$5,000.00 weekly limit if it is awarded pursuant to a daily drawing that is set up to award 100% of the gross revenues generated by the drawing. Such prize, however, may not exceed the \$500 per prize limit unless it is paid pursuant to a carryover drawing;
- f. A licensed eligible organization may not conduct any daily drawings during an operating week in which the organization conducts weekly drawing; and
- g. The rules of the games must be prominently posted.

## 5. WEEKLY DRAWINGS

A weekly drawing is defined by the Act as a game in which a bona fide member selects or receives a number or numbers for a chance at a prize with the winner determined by a random drawing to take place on the eligible organization's premises at the end of the eligible organization's operating week. Weekly drawing winners may be determined with the aid of a passive selection device or reference to State Lottery drawings. A licensed eligible organization may sell more than one chance in a weekly drawing to a bona fide member. However, no chance may be sold for more than \$1.00. A weekly drawing prize may exceed \$500.

Additional requirements for weekly drawings include:

- a. Tickets may be purchased only by bona fide members;
- b. The prize awarded in a weekly drawing may exceed the \$5,000 weekly prize limit if the prize is the result of a carryover of a weekly drawing that result from the winning number in such drawing not being among the eligible entrants in such drawings. The prize may not exceed the \$5,000.00 weekly prize limit if there is a failure to conduct a weekly drawing or if it is for a weekly drawing in which chances are sold in excess of \$1.00. A weekly drawing prize may also exceed the \$5,000 weekly prize limit if it is set up to pay out 100% of the revenues generated; and
- c. An eligible organization may not conduct any daily drawings during an operating week in which a weekly drawing is conducted.

# LICENSED PREMISES AND LOCATION OF GAMES OF CHANCE

## General Rule

1. Games of chance may be conducted only on the licensed eligible organizations **licensed premises**.

### 2. Licensed Premises

a. Where there exists a location or premises which is the normal business or operating site of the eligible organization and the site is owned or leased by that eligible organization to conduct its normal business, that site shall be the licensed premises for small games of chance conducted by the eligible organization. Each eligible organization must identify its licensed premises on its license application.

b. If a premises consists of more than one building, the organization must choose the building in which the games will be conducted and indicate the building on its license application. A licensed organization may operate games in a different building than the one indicated on its application, but the organization must first notify the district attorney and licensing authority of the change and the dates when the change will be effective.

c. When an eligible organization does not own or lease a specific location to conduct its normal business, the organization may use another licensed eligible organization's premises to conduct its games.

Note: If an eligible organization uses the licensed premises of another eligible organization, the organization permitting such use must stop operating games of chance during the period of such use.

d. When an eligible organization does not own or lease a specific location to conduct its normal business, the organization may make such other arrangements to conduct its games, including, but not limited to, leasing a premise under a written agreement. The rental price may not be based upon either the amount of receipts realized from the playing of the games of chance or the number of people attending. However, a licensed organization may lease a facility for a banquet where a per head charge is applied in connection with the serving of a meal.

## Exceptions

### 1. Raffles

Raffle tickets may be sold on the organization's licensed premises or in any municipality that has approved small games of chance by referendum. If a licensed organization plans to sell raffle tickets in a municipality located in a county other than the county in which the eligible organization is licensed, the organization must notify that county's district attorney and licensing authority as to the location and the dates that the eligible organization plans to sell raffle tickets.

### 2. Annual Carnivals, Fairs, Picnics or Banquets

Upon notice to the district attorney and licensing authority of the county in which it is licensed, a licensed organization may conduct games of chance off its licensed premises when such games are part of an annual carnival, fair, picnic or banquet held by the organization on a historic basis.

## **LICENSED ELIGIBLE ORGANIZATION REQUIREMENTS AND RESTRICTIONS**

1. The Small Games of Chance License should be predominately displayed.
2. Players must be 18 or older to participate.
3. No person convicted of a felony or a violation of the Bingo Law or the Act may manage, set up, supervise or participate in the operation of games of chance.
4. A licensed eligible organization may not advertise the prizes offered in games of chance, but prizes must be identified on a raffle ticket.
5. A licensed eligible organization may not pay a person to conduct games of chance.
6. Only eligible organization managers, officers, directors, bar personnel or bona fide members of the eligible organization may conduct a small game of chance.
7. Players of games of chance shall pay for their plays in cash and in advance of the game's play.
8. The maximum cash value of a prize for individual play is \$500, except for prizes awarded in a raffle conducted under a special permit, in carryover daily drawings and in weekly drawings.
9. No more than \$5,000 in cash or merchandise may be awarded during the eligible organization's operating week.
10. No more than \$5,000 in cash or merchandise may be awarded in raffles in a calendar month except under a special permit.
11. No one visibly intoxicated may purchase or sell a chance.
12. Merchandise prizes should be displayed in the immediate area of the games for which they are prizes.
13. Prizes should be delivered to the winner as soon as possible.
14. Winning pull-tabs or punchboard plays should be perforated or punched as soon as they are redeemed.
15. An employee of a distributor may not be an employee, consultant or volunteer to a licensed eligible organization unless the employee has made a full written disclosure of the employee's distributorship employment to the eligible organization.
16. The licensed eligible organization shall not allow an employee of a distributor to play games of chance at the eligible organization if the eligible organization is a customer of the distributorship.

## **ELIGIBLE ORGANIZATION RECORDS**

1. A licensed eligible organization is required to keep the following records for a two-year period:
  - a. Annual records of the activities related to small games of chance with separate totals of activity under the license for each 7-day period.
  - b. General records include:
    - i. Gross receipts from small games of chance.
    - ii. Full details of the expenses related to small games of chance.
    - iii. Total cost of prizes paid out.
    - iv. Details of how the proceeds were used or distributed.
    - v. Invoices for games of chance.
  - c. Records for each raffle should include:
    - i. Amount of proceeds received.
    - ii. Expenses.
    - iii. List of merchandise, prizes and their receipts.
    - iv. Names and addresses of all prize winners over \$100.00.
    - v. Cash value of all prizes.
  - d. Punchboard and pull-tab records should include:
    - i. Name and serial number of each punchboard and pull-tab deal.
    - ii. Date placed in and removed from play.
    - iii. Total number of plays in each deal or punchboard.
    - iv. Cost per play, cost of prizes paid and cash value of all prizes in each deal and punchboard.
  - e. Punchboard and pull-tab records for prizes over \$100 should include:
    - i. The form and serial number of the pull-tab deal or punch board from which the prize was won.
    - ii. The name of the punchboard or pull-tab deal.
    - iii. Date of the win.
    - iv. The amount of a cash prize or the description and cash value of a merchandise prize/
    - v. The full name and address (including street address, city, state and zip) of the winner.
  - f. If a punchboard or pull-tab game is removed from play, the eligible organization must retain unplayed punches or pull-tabs and winning punches or pull-tabs for prizes in excess of \$100 for at least 2 years following the last day of the month in which it was removed from play; and, the board, unplayed punches or pull-tabs, flare and winning punches or pull-tabs must remain available for inspection on the licensed premises.
  - g. Prize records -- A licensed eligible organization must keep a separate annual record of prizes including:
    - i. The number and amount of all prizes awarded in excess of \$100.
    - ii. The total amount of all prizes awarded in each 7-day period.
    - iii. The total amount of raffle prizes awarded each month.

## **ENFORCEMENT**

### **Criminal complaints**

The district attorney of each county and other law enforcement officials (Attorney General, State and local police, Liquor Control Enforcement officers) investigate criminal violations of the act. Complaints for criminal violations of the act are initiated as provided by law for criminal complaints and actions.

### **Requests for information on criminal complaints, investigations and convictions**

The Department and licensing authority may request information on a complaint, investigation, or conviction involving a manufacturer, distributor or eligible organization or a responsible person or member of the organization for purposes of initiating administrative action against the manufacturer, distributor, or eligible organization.

### **Reporting violations**

A person should notify the licensing authority and the district attorney of a licensed eligible organization's violation.

A person should notify the Department of a registered manufacturer or licensed distributor's violation. The district attorney and other law enforcement officials should be notified of criminal violations.

### **Investigations of Eligible Organizations**

The licensing authority, or its designee, investigates an eligible organization when it has reason to believe that a violation of the act or this part has occurred or is occurring.

### **Investigations of a Manufacturer or Distributor**

The Department, or its designee, investigates a manufacturer or distributor when it has reason to believe that a violation of the act or this part has occurred or is occurring.

### **Information Sharing**

Licensing authorities and the Department provide information and documentation regarding an investigation of a manufacturer, distributor or eligible organization to district attorneys and other law enforcement officials for purposes of criminal investigation and prosecution.

Licensing authorities provide information and documentation to the Department about violations of the act or this part by a manufacturer or distributor.

The Department provides information and documentation to licensing authorities about violations of the act or this part by an eligible organization.