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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1393 Session of  
2015

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INTRODUCED BY WARNER, MILLARD, DIAMOND, SANKEY AND NESBIT,  
JUNE 24, 2015

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REFERRED TO COMMITTEE ON GAMING OVERSIGHT, JUNE 24, 2015

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AN ACT

1 Amending Title 4 (Amusements) of the Pennsylvania Consolidated  
2 Statutes, in gaming, further providing for Category 1 slot  
3 machine license, for change in ownership or control of slot  
4 machine licensee, for multiple slot machine license  
5 prohibition; and prohibiting undue economic concentration.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Section 1302(a) of Title 4 of the Pennsylvania  
9 Consolidated Statutes is amended to read:

10 § 1302. Category 1 slot machine license.

11 (a) Eligibility.--A person may be eligible to apply for a  
12 Category 1 license to place and operate slot machines at a  
13 licensed racetrack facility if the person:

14 (1) has been issued a license from either the State  
15 Horse Racing Commission or the State Harness Racing  
16 Commission to conduct thoroughbred or harness race meetings  
17 respectively with pari-mutuel wagering and has conducted live  
18 horse races for not less than two years immediately preceding  
19 the effective date of this part;

1           (2) has been approved or issued a license from either  
2 the State Horse Racing Commission or the State Harness Racing  
3 Commission to conduct thoroughbred or harness race meetings  
4 respectively with pari-mutuel wagering within 18 months  
5 immediately preceding the effective date of this part and  
6 will successfully conduct live racing pursuant to the  
7 requirements of section 1303 (relating to additional Category  
8 1 slot machine license requirements);

9           (3) has been approved by the State Harness Racing  
10 Commission, after the effective date of this part, to conduct  
11 harness race meetings with pari-mutuel wagering and will  
12 conduct live racing pursuant to the requirements of section  
13 1303; or

14           (4) is a successor in interest to persons eligible under  
15 paragraph (1), (2) or (3) who comply with the requirements of  
16 section 1328 (relating to change in ownership or control of  
17 slot machine licensee) or is a successor in interest to  
18 persons otherwise eligible under paragraph (1), (2) or (3)  
19 but precluded from eligibility under the provisions of  
20 section [1330] 1330.1 (relating to undue economic  
21 concentration prohibited).

22 Nothing in this part shall be construed to permit the approval  
23 or issuance of more than one slot machine license at a licensed  
24 racetrack facility.

25       \* \* \*

26       Section 2. Section 1328 of Title 4 is amended by adding a  
27 subsection to read:

28 § 1328. Change in ownership or control of slot machine  
29                   licensee.

30       \* \* \*

1 (f) Undue economic concentration prohibited.--A change in  
2 ownership or control of a slot machine licensee shall comply  
3 with section 1330.1 (relating to undue economic concentration  
4 prohibited).

5 Section 3. Section 1330 of Title 4 is repealed:

6 [§ 1330. Multiple slot machine license prohibition.

7 No slot machine licensee, its affiliate, intermediary,  
8 subsidiary or holding company may possess an ownership or  
9 financial interest that is greater than 33.3% of another slot  
10 machine licensee or person eligible to apply for a Category 1  
11 license, its affiliate, intermediary, subsidiary or holding  
12 company. The board shall approve the terms and conditions of any  
13 divestiture under this section. Under no circumstances shall any  
14 such divestiture be approved by the board if the compensation  
15 for the divested interest in a person eligible to apply for a  
16 Category 1 license exceeds the greater of the original cost of  
17 the interest, the book value of the interest or an independently  
18 assessed value of the interest one month prior to the effective  
19 date of this part and, in the case of a person eligible to apply  
20 for a Category 1 license, unless the person acquiring the  
21 divested interest is required to continue conducting live racing  
22 at the location where live racing is currently being conducted  
23 in accordance with section 1303 (relating to additional Category  
24 1 slot machine license requirements) and be approved for a  
25 Category 1 slot machine license. No such slot machine license  
26 applicant shall be issued a slot machine license until the  
27 applicant has completely divested its ownership or financial  
28 interest that is in excess of 33.3% in another slot machine  
29 licensee or person eligible to apply for a Category 1 license,  
30 its affiliate, intermediary, subsidiary or holding company.]

1 Section 4. Title 4 is amended by adding a section to read:

2 § 1330.1. Undue economic concentration prohibited.

3 (a) General rule.--No slot machine licensee, its affiliate,  
4 intermediary, subsidiary or holding company may possess an  
5 ownership or financial interest of another slot machine licensee  
6 or person eligible to apply for a Category 1 license, its  
7 affiliate, intermediary, subsidiary or holding company if the  
8 ownership or financial interest would result in undue economic  
9 concentration in this Commonwealth.

10 (b) Board to establish criteria.--The board shall establish  
11 through regulation criteria for determining whether the issuance  
12 of a slot machine license or a change in ownership or control of  
13 a slot machine licensee occurring under section 1328 (relating  
14 to change of ownership or control of slot machine licensee)  
15 constitutes undue economic concentration. The criteria shall  
16 include:

17 (1) The percentage share of the market presently  
18 controlled by the applicant.

19 (2) The estimated increase in the market share if the  
20 applicant is issued the slot machine license.

21 (3) The relative position of other slot machine  
22 licensees.

23 (4) The current and projected financial condition of the  
24 gaming industry in this Commonwealth.

25 (5) Current market conditions, including level of  
26 competition, consumer demand, market concentration, any  
27 consolidation trends in the industry and any other relevant  
28 characteristics of the market.

29 (6) Whether the applicant has separate organizational  
30 structures or other independent obligations.

1           (7) Potential impact on the projected future growth and  
2           development of the gaming industry in this Commonwealth.

3           (8) Whether the issuance or holding of the slot machine  
4           license by the applicant will adversely impact consumer  
5           interests.

6           (9) Any other criteria the board may require.

7           (c) Divestiture.--No applicant shall be issued a slot  
8           machine license or approved for a change in ownership or control  
9           until the applicant has completely divested a portion of  
10           ownership or financial interest of another slot machine licensee  
11           or person eligible to apply for a Category 1 license, its  
12           affiliate, intermediary, subsidiary or holding company  
13           determined by the board to be necessary to meet the requirements  
14           of this section. The board shall approve the terms and  
15           conditions of any divestiture that may be required under this  
16           section.

17           (d) Definition.--For the purpose of this section, "undue  
18           economic concentration" means that a slot machine licensee, its  
19           affiliate, intermediary, subsidiary or holding company would  
20           have such actual or potential domination of the gaming market in  
21           this Commonwealth as to substantially impede or suppress  
22           competition among slot machine licensees or adversely impact the  
23           economic stability of the gaming industry in this Commonwealth.

24           Section 5. This act shall take effect in 60 days.