

LOCAL OPTION SMALL GAMES OF CHANCE ACT
P.L. 1262, NO. 156 OF 1988 10 P.S. 311 et seq.

(As amended by Acts 108 and 195 of 1990)

QUESTIONS AND ANSWERS
Revised 4-1-91

1. What games are permitted?

The act permits daily drawings, raffles, punch boards and pull-tabs. Video poker and slot machines are not permitted. Bingo is permitted under a separate act.

2. What are the eligible organizations?

There are several types of entities that may be licensed by the County Treasurer. These include:

(a) any congressionally chartered organization within Pennsylvania or any branch, lodge, or chapter of nonprofit national or state organization within Pennsylvania, the membership of which consists of individuals who were members of the armed services or armed forces of the United States. It includes associations affiliated with these entities.

(b) a club as defined in Sec. 102 of the Liquor Code that qualifies as an exempt organization under IRC Sec. 501 (c) or IRC Sec. 527 and licensed to sell liquor at retail and which has a charitable, religious or civic purpose or is organized to benefit a political party.

(c) a nonprofit organization within Pennsylvania which is created and carried on for the mutual benefit of its members, having a limited membership and a representative form of government and is a branch, lodge, or chapter of a state or national organization.

(d) a not-for-profit religious organization conducting business in accordance with the express purpose of a written constitution, charter, articles of incorporation or bylaws.

(e) 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 purposes within Pennsylvania.

(f) similar to (e) local nonprofit organizations not affiliated with a national or state organization recognized by the governing body of the local municipalities.

(g) bona fide sportsmen's and wildlife associations.

(h) bona fide senior citizen's organizations.

(i) volunteer fire companies

(j) volunteer rescue squads

(k) volunteer ambulance associations.

(l) school booster associations organized to promote and encourage participation and support for extra curricular activities with the established primary and secondary public, private and parochial school systems.

(m) Auxiliary organizations may conduct games under parent organizations licenses. Activities of both must be included in weekly prize payment limits.

Entities which do not meet the above categories may not be licensed.

3. How long must an eligible organization exist before it can be licensed?

One year.

4. What is a charitable organization?

A not-for-profit group or body of persons which is created and exists for the purpose of:

(a) performing a human service;

(b) promoting the good and welfare of the aged, poor, infirmed or distressed;

(c) combating juvenile delinquency; or

(d) advancing the spiritual, mental social and physical improvement of young men and women.

5. What is a religious organization?

A not-for-profit group or body of persons which is created and which 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.

6. Who is responsible for licensing eligible organizations?

The county treasurer or if a home rule county or county of the first class, the designee of the governing authority.

7. Who is responsible for licensing distributors?

The Department of Revenue, Bureau of business Trust Fund Taxes-Registration Division.

8. Who is responsible for registering manufacturers?

The Department of Revenue , bureau of Business Trust Fund Taxes-Registration Division.

9. What is the prize limit for an individual prize?

\$500 except for a special permit raffle and certain daily drawings.

10. How much, in prizes, can an eligible organization award in a week?

\$5,000 may be awarded in cash and merchandise for each seven day period, except for certain daily drawings.

11. Are there any other limits?

Yes, the total amount of prizes awarded in raffles for any month must not exceed \$5,000 except for raffles under special permit. The prize may not be in violation of the law, such as liquor to a minor.

12. Is there a limit on the number of raffles an eligible organization may conduct?

No.

13. What is a special permit raffle?

This is a raffle for which an eligible organization obtains a special permit to award individual prizes in excess of \$500 each. The eligible organization can award up to a total of \$25,000 in prizes in this raffle. A special permit is needed if either the \$500 limit or the \$5,000 limit is exceeded. (see also #64 & #65)

14. If an eligible organization holds a special permit raffle in month A, can they hold another raffle in month A which awards a maximum of \$5,000 in prizes?

Yes.

15. How many special permits can an organization holding a regular license receive each year?

Two per license year, except volunteer fire, ambulance and rescue organizations, which may have three in a license year.

16. From whom can eligible organizations buy games of chance?

Currently licensed distributors. An eligible organization should ask for a copy of the distributor's current license. Raffle and daily drawing tickets do not have to be purchased from licensed distributors.

17. What is the difference between a raffle and a daily drawing?

A raffle is when the player buys a ticket for a chance determined by a random drawing of corresponding ticket stubs or by reference to drawings of the Pennsylvania State Lottery. The location and the date of the drawing must be printed upon the ticket.

A daily drawing is also a chance at a random drawing. However, only bona fide members may participate and the drawing must take place on the eligible organizations premises on the same day as the ticket or number is sold, assigned, or selected. The winning number may be determined by a random drawing using a passive selector device or by reference to the drawings of the Pennsylvania State Lottery. The tickets may not cost more than \$1.00.

Raffles may have multiple drawing dates and the drawings of the PA State Lottery may be used to determine the winners.

18. Once the eligible organization obtains a license, is it true that these games can be sold anywhere?

No, the games may only be conducted on the licensed premises. Raffle tickets may be sold off the premises, but only in approving municipalities.

19. So, raffle tickets can be sold anywhere?

Almost, the tickets may be sold in any county but only in municipalities which have approved a referendum on small games of chance. There are notice requirements which must be met to sell outside the licensing county.

20. Will there be any taxes on the games of chance sold to the eligible organizations?

All sales by the distributors to eligible organizations will be subject to sales tax unless the purchasing eligible organization has a Pennsylvania sales and use tax exemption number and provides the distributor with the proper exemption certificate.

21. Are the winnings taxable?

Any cash or merchandise awarded to a player must be reported on the person's individual income tax return filed with the Internal Revenue Service and the Commonwealth of Pennsylvania. There may also be a local income tax.

22. How much does an eligible organization license cost?

\$100 for a regular license.
\$10 for a limited occasion license.

23. How much does a distributor license cost?

\$1,000.

24. How much does it cost a manufacturer to register?

\$2,000.

25. How old do you have to be to play these games?

18 years old.

26. How old do you have to be to operate these games for an eligible organization?

18 years old.

27. Can an eligible organization pay compensation to someone to operate its games of chance?

No.

28. Can an eligible organization advertise the prize or prizes or their dollar value of the prizes it plans to award in the games of chance it conducts?

An eligible organization may advertise the prizes or their dollar value in periodic publications which are limited in their circulation to members of the organization. All other advertisement of prizes or their value is prohibited.

29. What can happen to eligible organizations which do not obey the Act?

It is a summary offense.

The first offense carries a fine not to exceed \$1,000 and loss of the license for the remainder of the license period or 6 months, which ever is longer.

The second offense carries a fine not to exceed \$1,000 and loss of the license for the remainder of the license period and the organization is ineligible for a license for the following license period.

The third and subsequent offenses carry fines not to exceed \$1,000 and the loss of the license for the remainder of the license period and the organization is ineligible for a license for 30 months after the date of conviction.

30. What can happen to an individual who conducts or assist in the conduct of games of chance in violation of the Act?

It is a summary offence for the 1st offense, a misdemeanor of the 3rd degree for the second offense, and a 1st degree misdemeanor for all subsequent offenses.

31. What happens to a distributor who does not get a license or a manufacturer who does not register who sells or delivers games to be used in Pennsylvania?

This is a misdemeanor of the 1st degree.

32. Is there a penalty for rigging a game?

Yes, it is a misdemeanor of the 1st degree.

33. Can an eligible organization be required to pay a percentage of total winnings to get the games of chance or the necessary equipment?

No, this is a misdemeanor of the 1st degree.

34. Can the eligible organization's rent be determined by the gross receipts from games of chance or the number of persons attending the event?

No, except that a per head charge may be paid if it is in connection with the serving of a meal.

35. What day did the Act become effective?

February 17, 1989. Act 108 became effective on July 11, 1990. Act 195 became effective on December 19, 1990.

36. What is the N.A.F.T.M.?

National Association of Fund Raising Ticket Manufacturers.

37. What is the N.A.G.R.A.?

North American Gaming Regulators Association.

38. Is Pennsylvania the only state which permits these activities?

No, as of December 31, 1987, 22 states permitted raffles, 2 states permitted punch boards, 3 states permitted charitable lotteries and 22 states permitted pull-tabs.

39. How does this Act affect the Bingo Law?

Not at all. these laws are completely separate and distinct.

40. Will there be a uniform fee for special permits?

No, every county licensing authority may establish its own fee provided it does not exceed \$25.

41. Who receives the eligible organization application fee?

This will be paid to the county.

42. Who receives the manufacturer's and distributor's fees?

These fees are paid to the Pennsylvania Department of Revenue.

43. What should an eligible organization do if it is requested to buy games of chance from an unlicensed distributor?

The eligible organization should not put its license at risk. Report the activity to the local District Attorney and refuse to do business with the unlicensed persons. It would also be helpful to notify the Department of Revenue of the unlicensed activity.

44. What is the Pennsylvania Department of Revenue responsible for?

The Pennsylvania Department of Revenue is responsible for:

- a. prescribing the eligible organization application form
- b. licensing distributors
- c. registering manufacturers; and
- d. promulgating regulations addressing –
 - (1) minimum standards and restrictions for the manufacturer of tickets,
 - (2) procedure for registration of manufacturers and licensing distributors,
 - (3) procedure for suspension or revocation of manufacturer registrations and distributor licenses,
 - (4) carry out other provisions of the Act.

45. Who will enforce the Act?

The District Attorney is required to investigate alleged violations of the Act and file appropriate complaints and prosecute according to the manner provided by law.

Other Commonwealth, county or local law enforcement officials may also investigate and enforce the provisions of the Act.

46. When a complaint is received about an eligible organization, who handles it originally?

The District Attorney will do the initial investigation for purposes of the criminal charges. The licensing authority may also investigate alleged violations for purposes of revoking and suspending an eligible organization's license.

47. What is the definition of municipality?

A municipality is a city, borough, incorporated town or township or a home rule municipality formerly classified as a city, borough, incorporated town or township.

48. Can an eligible organization obtain a listing of distributors who are licensed with the Department of Revenue?

Yes, each county licensing authority is provided with the updated list.

49. When will the Department of Revenue regulations be available?

The regulations, based on the unamended Act, were approved for publication on January 1991. They were published in the Pennsylvania Bulletin on March 2, 1991.

An amendatory package of regulations to implement Acts 108 and 195 of 1990 are being drafted. Once proposed, they will undergo a statutory review process similar to that of the original regulation.

50. When can the referendum question be placed on the ballot if it was not on the 1989 ballot?

The earliest will be the primary election ballot in May 1991.

51. If it was on the May 16, 1989, ballot, when can it appear on the ballot again?

The earliest will be the primary election ballot in May 1993. There was a special provision which allowed municipalities which rejected the Act in May 1989 to hold a referendum in November 1990.

52. How do eligible organizations get the question on the ballot?

Two ways are created in which a referendum may be initiated. The governing body of a municipality can adopt a resolution calling for a referendum and then file the resolution with the County Board of Elections. The second way is to file petitions which contain signatures of electors equal to at least 25% of the highest vote cast for any office in the municipality at the last preceding general election.

53. May a raffle winning number be selected using the State Lottery Daily Number?

Yes.

54. Where does an eligible organization buy raffle tickets?

Raffle tickets may be purchased from any printer provided the statutory and regulatory restrictions are met.

55. Where does an eligible organization buy daily drawing tickets?

Daily drawing tickets, which include the double rolls used for 50-50's and member sign-in's, may be purchased from any source provided that the statutory and regulatory restrictions are met.

56. Are stamp machines legal?

Stamp machines may be used to dispense pull-tab tickets. Manufacturers of approved stamp machines are designated by a registration number provided by M/S.

57. Is a manufacturer's registration or distributor's license required to print raffle tickets?

No. Raffle tickets may be printed by anyone.

58. What is a dispensing machine?

A dispensing machine is a device designed exclusively to dispense games of chance. It includes ticket jars, fish bowls and stamp machines. The Department has further defined stamp machines to distinguish them from gambling devices. A stamp machine is a device designed exclusively to dispense pre-printed pull-tab tickets which does not make any change to, marking on, or alter in any way the ticket placed in the device. It may not print or produce tickets in any manner.

59. Can a daily drawing jackpot be rolled over if the winning number is not among the eligible entrants?

Yes, if the tickets were sold for no more than \$1.00 for the drawing and no more than one chance was sold to each eligible participant.

60. Can the \$5,000 limit ever be exceeded?

Yes, in the daily drawing referred to above and in a daily drawing designed and conducted to pay out 100% of the gross revenues generated from the game. In other words, the most any person can win is still \$500, but the organization can award in excess of \$5,000 in the week if it is the result of this type of game.

61. What is a passive selection device?

It is a device used to hold or denote the universe of possible winning numbers or entrants in a daily drawing or raffle.

62. Can a licensed, eligible organization use the proceeds of games for any purpose or are they limited?

The proceeds may only be issued for public interest purposes or the purchase of small games of chance.

63. What do you mean by “public interest purposes”? (replaces the term “Legitimate Club Purpose”)

“Public Interest Purpose” include:

- (1) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, the suffering or distress, by contributing to the 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 the nation were 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;

- (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 exclusively for one or more of the purposes specified in (1) – (4) above.

64. What is the difference between a limited occasion license and a regular license?

A limited occasion license permits the organization to hold three events per year. Only two of the events may be raffles. The events may cover not more than a total of seven days. Under a limited occasion license, the organization may not award a prize which exceeds \$500 and the \$5,000 weekly and \$5,000 raffle totals apply.

If the organization has a limited occasion license, it is not eligible for either a special permit or a regular license for the license period.

65. Who is eligible for a limited occasion license?

Eligible organizations which do not own or lease a specific location to conduct their normal business are eligible for a limited occasion license.

66. What is the site at which an organization should be licensed?

It should be the normal business site at which the organization conducts the activities which are within the purposes of the organization.

67. What does the Act mean by civic purposes?

This term is not defined by the Local Optional Small Games of Chance Act or the Statutory Construction Act. In most cases, it will be left up to the governing body of the municipality since it will be required to pass the resolution.

68. Are all Fraternal Organizations eligible for small games of chance licenses?

If a fraternal organization has a liquor license under Section 102 of the Liquor Code and has a charitable, religious or civic purpose, it is eligible. It is eligible as a “fraternal” organization only if it is a branch, lodge, or chapter of a national or statewide organization. The only other way a fraternal organization can be eligible is if it meets the definition of civic and the service associations. Most fraternal organizations which do not meet either of the first two criteria will not be eligible.