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ALLEGHENY COUNTY LABOR COUNCIL
REPORT OF LEGAL COUNSEL
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Pennsylvania Local Option Small Games of Chance Act

The Pennsylvania Local Option Small Games of Chance Act (the Act), 10 P.S. §§328.101, was originally passed in 1988. The Act allows certain nonprofit organizations, known as “eligible organizations”, to conduct specific small games of chance for the purpose of raising funds for the promotion of “public interest purposes”. The Pennsylvania Department of Revenue has passed regulations pursuant to the Act that were adopted and are set forth at 61 Pa Code §901.1, et seq.

The eligible organizations are permitted to conduct limited types of gambling such as punchboards, pull-tabs, raffles (including special-permit raffles), daily drawings and weekly drawings. Unless otherwise authorized by law, all other forms of gambling are prohibited criminal offenses under the Pennsylvania Crimes Code. For example, none of the games played at a typical “Monte Carlo Night” event are sanctioned by the Act. Also, “Texas Hold’em”, “Night at the races” “Football, Basketball Pools” are all prohibited. Some organizations may use play money for such events, but if at any point the play money, won while playing any game of chance takes on value, gambling has occurred and it is violation of the Pennsylvania Crimes Code.

On March 3, 2012, Act 2 of 2012, became effective and brought about changes to the Small Games of Chance Act. The following are a few of the new provisions under Small Games of Chance license.

1. Application and Background Checks. Each application requires the results of a criminal records background check from the PA. State Police. This requirement will be for the President or Executive Officer, and the Secretary of the eligible organization making the application for a license, along with any other person required by the Department pursuant to the regulations the Department is authorized to issue.

2. Increases in Prize Limits

- Individual prize limit increases from \$500 to \$1,000
 - The weekly prize limitation is now known as the aggregate prize limit, which increased from \$5,000 to \$25,000 in any 7-day period.
 - Raffle limit increases from \$5,000 to \$10,000 in any calendar month.
 - There is a total limit-all prizes awarded shall be subject to the aggregate prize limit of \$25,000
 - There is still an exception for raffles; if you exceed the prize limit value of \$1,000. The total limit for exception still remains at \$100,000. Organizations that wish to raffle a prize or prizes in excess of \$1,000 need to apply for a Special Raffle Permit. Organizations may now receive eight Special Raffle Permits (instead of two) and ten for Fire, Ambulance, & Rescue Companies (as long as not a Club). However, Fire, Ambulance & Rescue Companies can award an added \$50,000 beyond the \$100,000 for special raffles.
 - The daily drawing carryover is increased from \$500 to \$1,000 and the weekly drawing carryover is increased from \$5,000 to \$25,000 consistent with the increased prize limits
3. Auxiliary Groups of a licensed organization can conduct games using the license of the eligible organization as long as they were listed on the application form. Auxiliary groups are not eligible to obtain a license.
 4. All licensed eligible organizations must keep a separate bank account holding the proceeds of the games of chance which is separate from other funds belonging to the eligible organization.
 5. Each eligible organization shall submit an annual report to the Department of Revenue including prizes awarded and the amounts expended for “public interest purposes”.
 6. Beginning in 2013, a club licensee shall submit semiannual reports to the Department of Revenue for the preceding six month period on a form and in a manner prescribed by the Department. This report must be attached to the application for a club license. Proceeds from games can now be split 70% for the public interest purpose and 30% for operations. This split only applies to Clubs with limitations on the operations side as defined by the Act.

While the above represents the most recent changes to the law, what is most important to our organizations is how “we” are viewed in the eyes of the law- are we an “eligible organization” able to conduct the limited types of games of chance noted above? The law defines “eligible organizations” as follows:

Eligible organization—An organization that meets all of the following:

- (i) Nonprofit.

(ii) Charitable organization, religious organization, fraternal organization, veterans organization, club or civic and service association.

(iii) In existence and fulfilling its purposes for 1 year prior to the date of application for a license.

The law defines “fraternal organization” as follows:

Fraternal organization—An organization within this Commonwealth created and carried on for the mutual benefit of its members, has a limited membership and a representative form of government and is a branch, lodge or chapter of a National or State organization.

Under these definitions it would appear that a labor organization would qualify as a “fraternal organization” and thus an eligible organization thereby lawfully permitted to secure a permit and conduct the limited types of gambling. However, permits to sell "small games of chance" are issued by the county treasurer pursuant to § 11(b) of the Local Option Small Games of Chance Act. A call to the Allegheny County Treasurer to apply for this permit to conduct small games of chance revealed that the County Treasurer has not and will not issue such permits to a “union”. In order to challenge this decision, it would be necessary to file an action in Court to compel the County Treasurer to provide this permit under the Act, arguing that a “labor organization” qualifies as an eligible organization eligible to participate in the games of chance authorized under the Act.

RESPECTFULLY SUBMITTED,

JOSEPH S. PASS, ESQUIRE