

CHAPTER 421a. GENERAL PROVISIONS

Sec.

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Authority

The provisions of this Chapter 421a issued under 4 Pa.C.S. §§ 1202(b)(9), (13)—(20), (23) and (30), 1202.1(b) and (e), 1205, 1311.1, 1311.2, 1317, 1317.1, 1319, 1321(a)(1) and (2), 1325, 1326, 1331 and 1406, unless otherwise noted.

Source

The provisions of this Chapter 421a adopted October 26, 2007, effective October 27, 2007, 37 Pa.B. 5752, unless otherwise noted.

Cross References

This chapter cited in 58 Pa. Code § 427a.2 (relating to manufacturer license applications and standards); 58 Pa. Code § 427a.5 (relating to responsibilities of a manufacturer); 58 Pa. Code § 429a.2 (relating to manufacturer designee license applications and standards); 58 Pa. Code § 429a.5 (relating to responsibilities of a manufacturer designee); 58 Pa. Code § 431a.2 (relating to supplier license applications and standards); 58 Pa. Code § 431a.4 (relating to responsibilities of a supplier); 58 Pa. Code § 433a.8 (relating to principal applications); 58 Pa. Code § 435a.1 (relating to general provisions); 58 Pa. Code § 435a.2 (relating to key employee license); 58 Pa. Code § 435a.3 (relating to occupation permit); 58 Pa. Code § 435a.5 (relating to nongaming employee registration); 58 Pa. Code § 436a.3 (relating to permitting of officers, directors, representatives and fiduciaries); 58 Pa. Code § 437a.2 (relating to gaming service provider registration applications); 58 Pa. Code § 437a.3 (relating to gaming service provider certification applications); 58 Pa. Code § 437a.7 (relating to registered, certified and authorized gaming service provider responsibilities); 58 Pa. Code § 438a.3 (relating to permitting of labor organization officers, agents and management employees); 58 Pa. Code § 439a.3 (relating to gaming junket enterprise license applications); 58 Pa. Code § 439a.6 (relating to junket representative registration); 58 Pa. Code § 440a.2 (relating to applications); 58 Pa. Code § 441a.3 (relating to slot machine license application); and 58 Pa. Code § 613a.2 (relating to gaming related gaming service provider certification applications).

§ 421a.1. General requirements.

(a) A license, permit, certification, registration or authorization issued by the Board is a revocable privilege. No person holding a license, permit, certification, registration or authorization is deemed to have any property rights related to the license, permit, certification, registration or authorization.

(b) By filing an application with the Board, an applicant consents to an investigation, to the extent deemed appropriate by the Bureau, of the applicant's general suitability, financial suitability, character, integrity and ability to engage in, or be associated with, gaming activity in this Commonwealth.

(c) By filing an application for a license, permit, certification, registration or authorization from the Board, an applicant agrees to:

(1) Abide by the provisions of the act and this part.

(2) Waive liability as to the Board, its members, its employees, the Pennsylvania State Police, the Commonwealth and its instrumentalities for damages resulting from disclosure or publication in any manner, other than a willfully unlawful disclosure or publication of material or information acquired during an investigation of the applicant.

(3) Execute all releases requested by Board staff, including releases whereby the applicant consents to the release of information that may be requested by the individual under section 1 of the Freedom of Information Act (5 U.S.C.A. § 552).

(d) An applicant for or holder of a license, permit, certification, registration or authorization may not give, or offer to give, compensation or reward or a percentage or share of the money or property played or received through gaming to a public official or public employee in consideration for or in exchange for obtaining a license, permit, certification registration or authorization issued pursuant to this part.

(e) An applicant for or holder of a license, permit, certification, registration or authorization shall have a continuing duty to inform the Bureau of:

(1) An action which the applicant for or holder of a license, permit, certification, registration or authorization believes would constitute a violation of the act or the Board's regulations. A person who so informs the Bureau may not be discriminated against by an applicant for or holder of a license, permit, certification, registration or authorization for supplying the information.

(2) A change in circumstances that may render the applicant for or holder of a license, permit, certification, registration or authorization ineligible, unqualified or unsuitable to hold a license, permit, certification, registration or authorization under the act and this part including an arrest, charge, indictment or conviction for:

(i) An offense involving moral turpitude.

(ii) An offense under 18 Pa.C.S. (relating to Crimes Code).

(iii) An offense under 75 Pa.C.S. (relating to Vehicle Code) which is punishable by 1 year or more.

(iv) An offense under section 13(a) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-113(a)), regarding prohibited acts and penalties.

(v) A felony offense.

(vi) A comparable offense in other states or foreign jurisdictions.

(f) An applicant for or holder of a license, permit, certification, registration or authorization shall have a continuing duty to inform the Bureau of Licensing of changes in the information supplied to the Bureau of Licensing in or in conjunction with the original or renewal application.

(g) An applicant for or holder of a license, permit, certification, registration or authorization shall have a continuing duty to promptly provide information requested by Board staff relating to its application and cooperate with Board staff in investigations, hearings, and enforcement and disciplinary actions.

(h) An applicant shall at all times have the burden of proof. It shall be the applicant's affirmative responsibility to establish the facts supporting its suitability under the act and this part by clear and convincing evidence, including why a license, permit, certification, registration or authorization should be issued or renewed by the Board.

(i) A person holding a license, permit, certification, registration or authorization issued by the Board shall have a continuing duty to maintain suitability and eligibility in accordance with the act and this part.

Authority

The provisions of this § 421a.1 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23) and (30), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 1311, 1311.1, 1311.2, 1317, 1317.1, 1318, 13A11, 13A12—13A14, 13A15, 1517 and 1802 and Chapter 13.

Source

The provisions of this § 421a.1 amended November 7, 2008, effective November 8, 2008, 38 Pa.B. 6150; amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (375079) to (375080) and (339579).

§ 421a.2. Disqualification criteria.

(a) An application for issuance or renewal of a license, permit, certification, registration or authorization may be denied, or a license, permit, certification, registration or authorization may be suspended or revoked if:

(1) The applicant has failed to prove to the satisfaction of the Board that the applicant or any of the persons required to be qualified are in fact qualified in accordance with the act and with this part.

(2) The applicant for or holder of a license, permit, certification, registration or authorization has violated the act or this part.

(3) The applicant for or holder of a license, permit, certification, registration or authorization is disqualified under the criteria in the act.

(4) The applicant for or holder of a license, permit, certification, registration or authorization has misrepresented, falsified or omitted a fact in the application for licensure or renewal.

(5) The applicant for or holder of a license, permit, certification, registration or authorization has failed to comply with Federal, state or local laws or regulations.

(6) The applicant for or holder of a license, permit, certification, registration or authorization is not current or is in arrears on a financial obligation owed to the Commonwealth or a subdivision thereof, including court-ordered child support payments.

- (b) An individual will be disqualified from obtaining or holding:
- (1) A principal or key employee license if the individual has been convicted of a:
 - (i) Felony offense in any jurisdiction.
 - (ii) Misdemeanor gambling offense in any jurisdiction, unless 15 years have elapsed from the date of conviction for the offense.
 - (2) A permit if the individual has been convicted of a felony or misdemeanor gambling offense in any jurisdiction unless 15 years have elapsed from the date of conviction for the offense.
- (c) When considering an application for registration from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction, a permit from an individual who has been convicted of a felony or misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, or a license from an individual who has been convicted of a misdemeanor gaming offense in any jurisdiction when 15 years have elapsed from the date of the conviction for the offense, the Board will consider:
- (1) The nature and duties of the applicant's position with the licensed entity.
 - (2) The nature and seriousness of the offense or conduct.
 - (3) The circumstances under which the offense or conduct occurred.
 - (4) The age of the applicant when the offense or conduct was committed.
 - (5) Whether the offense or conduct was an isolated or a repeated incident.
 - (6) Evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received and the recommendation of persons who have substantial contact with the applicant.
- (d) For purposes of this section, a felony offense is any of the following:
- (1) An offense punishable under the laws of the Commonwealth by imprisonment for more than 5 years.
 - (2) An offense which, under the laws of another jurisdiction, is either:
 - (i) Classified as a felony.
 - (ii) Punishable by imprisonment for more than 5 years.
 - (3) An offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be subject to imprisonment for more than 5 years.
- (e) An individual may not be employed in this Commonwealth by an applicant for or holder of a license, certification, registration or authorization under this part in any capacity unless the individual is a citizen of the United States or can demonstrate that he holds a current and valid work authorization and is not restricted from working in the capacity for which employment is sought or held.
- (f) A denial of an application or nonrenewal, suspension or revocation of a license, permit, certification, registration or authorization may be made for a sufficient cause consistent with the act, this part and the public interest.

Authority

The provisions of this § 421a.2 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 421a.2 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial page (339579).

§ 421a.3. Investigations; supplementary information.

(a) The Bureau may make an inquiry or investigation concerning an applicant for or holder of a license, permit, certification, registration or authorization or any affiliate, intermediary, subsidiary or holding company of the applicant for or holder of a license, permit, certification, registration or authorization as it may deem appropriate either at the time of the initial application or at any time thereafter.

(b) It is the continuing duty of an applicant and a holder of a license, permit, certification, registration or authorization to provide full cooperation to the Bureau in the conduct of an inquiry or investigation and to provide supplementary information requested by the Bureau.

(c) An applicant for an initial or renewal license, permit, registration, certification or authorization will be required to reimburse the Board for additional costs, based on the actual expenses incurred, in conducting the background investigation.

Authority

The provisions of this § 421a.3 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 421a.3 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (339579) to (339580).

§ 421a.4. Presuitability determination.

(a) Upon request from an eligible applicant for or holder of a license and upon receipt of an application and appropriate fees, the Bureau will make an inquiry or investigation of a potential purchaser of an applicant for or holder of a license as if the purchaser were an eligible applicant.

(b) The eligible applicant for or holder of a license making the request shall reimburse the costs associated with the inquiry or investigation.

(c) This inquiry or investigation does not replace the application process required under the act and this part which is a requirement for licensure.

Authority

The provisions of this § 421a.4 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 421a.4 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial page (339580).

§ 421a.5. Undue concentration of economic opportunities and control.

(a) In accordance with section 1102(5) of the act (relating to legislative intent), a slot machine license, management company license or principal license may not be issued to or held by a person if the Board determines that the issuance or holding will result in the undue concentration of economic opportunities and control of the licensed gaming facilities in this Commonwealth by that person.

(b) For purposes of this section, “undue concentration of economic opportunities and control of the licensed gaming facilities” means that a person:

- (1) Would have actual or potential domination of the gaming market in this Commonwealth contrary to the legislative intent.
- (2) Could substantially impede or suppress competition among licensees.
- (3) Could adversely impact the economic stability of the gaming industry in this Commonwealth.

(c) In determining whether the issuance or holding of a license by a person will result in undue concentration of economic opportunities and control of the licensed gaming facilities in this Commonwealth, the Board will consider the following criteria:

- (1) The percentage share of the market presently controlled by the person in each of the following categories:
 - (i) Total number of slot machine licenses available under section 1307 of the act (relating to number of slot machine licenses).
 - (ii) Total gaming floor square footage.
 - (iii) Number of slot machines and table games.
 - (iv) Gross terminal and table game revenue.
 - (v) Net terminal and table game revenue.
 - (vi) Number of persons employed by the licensee.
- (2) The estimated increase in the market share in the categories in paragraph (1) if the person is issued or permitted to hold the license.
- (3) The relative position of other persons who hold licenses, as evidenced by the market share of each person in the categories in paragraph (1).
- (4) The current and projected financial condition of the industry.
- (5) Current market conditions, including level of competition, consumer demand, market concentration, any consolidation trends in the industry and other relevant characteristics of the market.

(6) Whether the gaming facilities held or to be held by the person have separate organizational structures or other independent obligations.

(7) The potential impact of licensure on the projected future growth and development of the gaming industry in this Commonwealth and the growth and development of the host communities.

(8) The barriers to entry into the gaming industry, including the licensure requirements of the act, and whether the issuance or holding of a license by the person will operate as a barrier to new companies and individuals desiring to enter the market.

(9) Whether the issuance or holding of the license by the person will adversely impact consumer interests, or whether the issuance or holding is likely to result in enhancing the quality and customer appeal of products and services offered by slot machine licensees to maintain or increase their respective market shares.

(10) Whether a restriction on the issuance or holding of an additional license by the person is necessary to encourage and preserve competition and to prevent undue concentration of economic opportunities and control of the licensed gaming facilities.

(11) Other evidence related to concentration of economic opportunities and control of the licensed gaming facilities in this Commonwealth.

Authority

The provisions of this § 421a.5 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 421a.5 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (339580) and (375081).

§ 421a.6. [Reserved].

Authority

The provisions of this § 421a.6 adopted under 4 Pa.C.S. § 1202(b)(30); reserved under 4 Pa.C.S. §§ 1202(b)(15) and (30), 1207(2), (5), (8) and (9), 1212, 13A02(2), 13A26(c), 1509, 1516, 1518(a)(13) and 1602.

Source

The provisions of this § 421a.6 adopted April 4, 2008, effective April 5, 2008, 38 Pa.B. 1585; corrected April 25, 2008, effective April 5, 2008; amended May 13, 2011, effective May 14, 2011, 41 Pa.B. 2439; reserved November 7, 2014, effective November 8, 2014, 44 Pa.B. 7057. Immediately preceding text appears at serial pages (370295) to (370296).

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