

June 2018

TO: Members of the Legislative Budget and Finance Committee

FROM: Patricia A. Berger, Executive Director

SUBJECT: Annual Report Required by Act 2013-90: The Impact of Tavern Gaming on the Pennsylvania State Lottery

Act 2013-90, an amendment to the Local Option Small Games of Chance Act, requires the Legislative Budget and Finance Committee to conduct an annual study on the impact of tavern gaming on the State Lottery. Under the act, the Governor may request the General Assembly to appropriate money from the General Fund to the State Lottery Fund up to the amount identified in the study. This is the third report under this mandate.

Role of the Pennsylvania Gaming Control Board, the Liquor Control Board, and the Pennsylvania Department of Revenue. Applications for tavern gaming licenses are filed with the Pennsylvania Liquor Control Board (PLCB). The Pennsylvania Gaming Control Board (PGCB) then conducts a background investigation on the applicant through its Bureau of Investigations and Enforcement (BIE).

Upon completion of background investigations, the BIE transmits the report to the PLCB for its consideration in determining whether to award a license. Items included in the report contain information to determine if the applicant is financially stable and responsible, has sufficient business experience, the ability to effectively operate tavern games, and is of good character. The PLCB has six months upon receipt of the investigation report to approve or disapprove the application. As of April 2018, the PLCB has issued 61 tavern gaming licenses, of which 51 are active.¹

The Department of Revenue (DOR) licenses small games of chance distributors. It also receives quarterly and annual reports from tavern licensees on the net revenue of the games and the taxes due. DOR is also responsible for enforcing the provisions of the act relating to enforcement and tax collections.

Cost to Applicants. To apply, individuals must submit \$2,000 to the PLCB (a \$1,000 application fee to the PLCB and a \$1,000 investigation fee to the PGCB), with a completed application packet. If an application is approved, the licensee

¹ Gaming licenses may be inactive because they were not renewed, or because they were transferred with a liquor license.

must pay an additional \$500 license fee.² There is also an annual renewal fee of \$1,000 per license. The application fee and background check fees are non-refundable.

The PGCB receives the \$1,000 investigation fee to cover the cost of its background investigation. If the cost of conducting the background investigation exceeds the fee, the applicant must pay all additional costs. The PLCB retains the \$1,000 licensing fee to cover its administrative costs.

Allowable Tavern Games. Under Act 90, tavern owners are allowed to sell raffles (for a charitable or public purpose),³ pull-tab games, and daily drawings at licensed establishments. Pull tabs are defined in the act as “a single folded or banded ticket or a strip ticket or card with a 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.” Tavern daily drawings are games in which a person selects or is given a number for a chance at a prize. The winner is chosen by a random drawing. Chances may not be sold for more than one dollar, and no more than one chance per person may be sold per drawing.

The proceeds from pull tabs and daily drawings are subject to a 60/35/5 split, where 60 percent of the net revenues obtained in a year are paid to the Commonwealth, 35 percent can be retained by the licensee, and 5 percent goes to the municipalities that host tavern games, specifically, municipalities where taverns are located. Net revenue is defined in the statute as the difference between the face value collectible by a licensee from a tavern game and the maximum amount of prizes payable by a licensee from a tavern game.

Tavern raffles are defined as raffles held for a charitable or public purpose, and are subject to the following restrictions:

- No more than one tavern raffle may be held in a calendar month.
- No tavern game may have any single prize higher than \$2,000.
- No more than \$35,000 may be awarded through tavern games in any consecutive seven-day period.

² The license fee was originally \$2,000. This was lowered by the PLCB to \$500 in July 2014.

³ A public interest purpose is one or more of the following:

- (1) The activities and operations of a nonprofit benevolent, religious, educational, philanthropic, humane, scientific, patriotic, social welfare, social advocacy, public health, public safety, emergency response, environmental, or civic objective.
- (2) Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures.
- (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 relating operational expenses used for purposes specified in paragraphs (1), (2), and (3).

At least 50 percent of the net revenues from the tavern raffle must be given to the designated charity within seven days of the raffle. Any net revenues not given to the designated charity are to be distributed as follows:

- 60 percent is paid to the Commonwealth (the Tavern Games Tax),
- 35 percent may be retained by the licensee, and
- 5 percent is paid to the Commonwealth for payment to the host municipality in which a tavern is located (the Host Municipality Tavern Games Tax).

The Impact of Tavern Gaming on the State Lottery. When Act 90 was debated, the Governor’s Office of the Budget estimated 2,000 establishments would be licensed under the act, generating an average weekly payout of \$10,000 per license. Using this assumption, the legislation was estimated to generate total annual net revenue of \$156 million, which in turn would generate (at a 60 percent tax rate) \$93.6 million in additional revenues for the General Fund annually.

Actual tavern gaming tax revenues, however, have been far lower than originally projected. In CY 2014, tavern games generated approximately \$153,000 in tax revenue. The number has increased in successive years, with \$1.44 million in tax revenue in CY 2017. Table 1 shows tavern games revenues, for CYs 2015-2017, and lottery revenues for the same period.⁴ For CY 2017, tavern game revenues were .10 percent of lottery revenues.

Table 1

Tavern Games and Lottery Revenue⁵		
CY 2015-2017		
<u>Calendar Year</u>	<u>Tavern Games Revenue</u>	<u>Lottery Revenue</u>
2015	\$1,415,633	\$1,420,959,525
2016	1,566,229	1,481,843,213
2017	1,443,622	1,464,025,910

Source: Developed by LB&FC staff with data provided by the Department of Revenue.

The \$1.57 million in tavern game tax revenue collected in CY 2016 represents about \$2.40 million in patron losses, as compared to about \$1.48 billion in losses for persons participating in Lottery games that year. Tavern gaming losses were less than two-tenths of one percent (0.16 percent) of the losses incurred from playing Lottery games. For CY 2017, this number dropped slightly to .15 percent, with lottery losses at \$1.46 billion and tavern games losses at \$2.22 million. Table 2 below shows

⁴ Lottery revenue figures are total sales minus prize liability. Tavern revenues are total sales minus prize liability, minus the 35 percent that tavern licensees may keep as revenue.

⁵ Includes both state and municipal shares of tavern gaming tax revenues.

the losses for CYs 2015-2017. Because tavern gaming losses were so low compared to lottery losses, we concluded the patron losses due to tavern gaming did not have a material impact on State Lottery sales.

Table 2

Ratio of Lottery Patron Losses to Tavern Game Patron Losses
CY 2015-2017

<u>Calendar Year</u>	<u>Lottery Losses</u>	<u>Tavern Game Losses</u>	<u>Tavern Games to Lottery</u>
2015	\$1,420,959,525	\$2,177,897	.15%
2016	1,481,843,213	2,409,583	.16
2017	1,464,025,910	2,220,956	.15

Source: Developed by LB&FC staff with data provided by the Department of Revenue.
