

# TAVERN GAMING: CALENDAR YEAR 2023



March 20, 2024

**TO: Members of the Legislative Budget and Finance Committee**

**FROM: Christopher R. Latta, Executive Director**

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

## ***Why we conducted this study...***

*Act 2013-90, an amendment to the Local Option Small Games of Chance Act, authorized small games of chance in Pennsylvania's taverns. It also directs the Legislative Budget and Finance Committee to complete an annual study of tavern gaming's impact on Pennsylvania Lottery revenues.*

Act 2013-90, an amendment to the Local Option Small Games of Chance Act, requires the Legislative Budget and Finance Committee (LBFC) to conduct an annual study on the impact of tavern gaming on the Pennsylvania 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 ninth report under this mandate.

## **The Impact of Tavern Gaming on the Pennsylvania Lottery<sup>1</sup>**

When the General Assembly debated Act 2013-90, the Governor's Office of the Budget estimated that 2,000 establishments would be licensed, generating an average weekly payout of \$10,000 per license. Using this assumption, tavern gaming was estimated to generate a total annual net revenue of \$156 million, which would generate (at a 60 percent tax rate) \$93.6 million in additional revenues for the General Fund annually. However, actual tavern gaming tax revenues have been far lower than initially projected, with only \$11.3 million in total revenues.

Revenues increased in most years until CY 2019 when there was a 16 percent decrease in tax revenues from the prior calendar year. There was a

<sup>1</sup> In August 2018, seven casino organizations filed suit against the Department of Revenue, claiming that iLottery offers interactive games and games that simulate slot machines and casino-style games, violating Pennsylvania's lottery law and Act 2017-42. The Commonwealth Court dismissed the claim, ruling that the Pennsylvania Lottery's internet-based games do not infringe on the casinos' online games market. The case was appealed to the Pennsylvania Supreme Court, which, in December 2023, vacated the dismissal and remanded the case to the Commonwealth Court.

further decrease of 38 percent from CY 2019 to CY 2020, with revenues of \$1.37 million in tavern games and host municipality tax revenue in CY 2019 and only \$856,538 in CY 2020.<sup>2</sup> Tavern gaming tax revenues rebounded in CY 2021, increasing 48 percent from CY 2020. In CY 2022 and 2023, revenue was successively lower from CY 2021. Exhibit 1 shows these tax revenues for CYs 2019-2023 and lottery revenues for the same period.<sup>3, 4</sup> For CY 2023, tavern gaming tax revenues were 0.06 percent of lottery revenues.

Exhibit 1

**Tavern Games Tax and Lottery Revenue\*  
(CY 2019-2023)**

<b>Calendar Year</b>	<b>Tavern Games Tax Revenue</b>	<b>Lottery Revenue</b>	<b>Tavern Tax Revenue to Lottery (%)</b>
2019	\$1,374,100	\$1,595,846,207	0.09
2020	856,538	1,717,515,454	0.05
2021	1,266,131	1,864,127,740	0.07
2022	1,182,100	1,736,736,087	0.07
2023	1,079,427	1,752,502,003	0.06
<b>TOTAL</b>	<b>\$5,758,296</b>	<b>\$8,666,727,491</b>	

Note: \*Includes both state and municipal shares of tavern gaming tax revenues.

Source: Developed by LBFC staff with data from the Department of Revenue.

The \$1.18 million in tavern game and host municipality tax revenue collected in CY 2022 represents about \$1.82 million in patron losses, compared to about \$1.74 billion in patron losses for persons participating in lottery games, as shown in Exhibit 2. Tavern gaming patron losses were one-tenth of one percent (0.10 percent) of the losses incurred by those playing lottery games. For CY 2023, this number decreased to 0.09 percent, with lottery patron losses at \$1.75 billion and tavern games patron

<sup>2</sup> We reason tavern revenue was lower in CY 2020 because of COVID-19; taverns were shut down several times throughout CY 2020 and, therefore, did not operate normally.

<sup>3</sup> Lottery revenue figures are total sales minus prize liability for all lottery games, including iLottery games. Tavern gaming tax revenues are total sales minus prize liability, minus the 35 percent tavern licensees may keep as revenue.

<sup>4</sup> In 2017, Act 2017-42 authorized iLottery, which is defined as “a system that provides for the distribution of lottery products through numerous channels that include, but are not limited to, web applications, mobile applications, mobile web, tablets and social media platforms that allow players to interface through a portal for the purpose of account management, game purchase, game play and prize redemption.”

losses at \$1.66 million. This ratio has remained relatively steady from CY 2019 to CY 2023, ranging from 0.08 to 0.13 percent.

## Exhibit 2

### Ratio of Lottery Patron Losses to Tavern Game Patron Losses (CY 2019-2023)

Calendar Year	Lottery Patron Losses	Tavern Game Patron Losses	Tavern Games to Lottery (%)
2019	\$1,595,846,207	\$2,114,001	0.13
2020	1,717,515,454	1,317,751	0.08
2021	1,864,127,740	1,947,894	0.10
2022	1,736,736,087	1,818,615	0.10
2023	1,752,502,003	1,660,657	0.09

Source: Developed by LBFC staff with data from the Department of Revenue.

*Because tavern gaming losses were low compared to lottery losses and have remained consistent since we began issuing this report, we conclude that patron losses due to tavern gaming do not have a material impact on Pennsylvania Lottery sales. Further supporting this conclusion, tavern revenues have remained from 0.05 to 0.09 percent of lottery revenues for the past five years, as indicated in Exhibit 1.*

### 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 to determine whether to award a license. The report includes information to determine if the applicant is financially stable and responsible, has sufficient business experience, could effectively operate tavern games, and is of good character. Upon receipt of the investigation report, the PLCB has six months to approve or disapprove the application.

As of February 2024, the PLCB has approved 79 tavern gaming licenses from the 97 applications it has received; 39 licenses are active, two fewer than noted in our last report, and 29 licenses have expired. The number

of active licenses has been consistently falling since 2017 when there were 56 active licenses.

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 administering the act's enforcement and tax collection provisions.

## **Cost to Applicants**

To apply for a license, individuals must submit \$2,000 to the PLCB (\$1,000 is for an application fee to the PLCB, and a \$1,000 investigation fee is forwarded to the PGCB) with a completed application packet. If an application is approved, the licensee must pay an additional \$500 license fee. 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. The applicant must pay all additional charges if the background investigation costs exceed the fee. The PLCB retains the \$1,000 licensing fee to cover its administrative costs.

## **Pennsylvania Costs to Administer Tavern Games**

The costs to administer tavern gaming are minimal for the three Pennsylvania agencies tasked with tavern game administration: the PLCB, DOR, and the PGCB. PLCB estimates \$36 per application in personnel costs, resulting in a net gain from the agency's \$1,000 in application fees. Although DOR does not receive any part of the applicants' fees, it estimates its costs to be \$1,157 annually, based on 31 work hours.

The PGCB indicated the precise costs to perform individual background checks for tavern gaming licenses vary based on factors including the scope of the investigation, the size and number of persons and entities in the ownership of an applicant, and the history and nature of any tax, criminal, civil, or other regulatory matters. The individualized nature of the investigations precludes a generalized determination of costs that would apply across the board to all applicants. However, PGCB believes that its costs to perform these checks are appropriately offset by the \$1000 fee.

## Allowable Tavern Games

Under Act 90, tavern owners may sell various games, including pull-tab games, daily drawings, and raffles at licensed establishments. The act defines pull tabs 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, and a random drawing chooses the winner. 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, the licensee retains 35 percent, and five percent is remitted to the municipalities where the taverns are located (Host Municipality Tavern Games Tax). 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 number of prizes payable by a licensee from a tavern game.

Raffles, which may only be held for a charitable or public interest purpose, may be held no more than once in a calendar month.<sup>5</sup> 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 will be distributed according to the same 60/35/5 split defined above.

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<sup>5</sup> 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 the government or voluntarily supporting, augmenting, or supplementing services that the government would generally 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).