

**Joint Hearing**  
**House Gaming Oversight Committee / House Liquor Control Committee**  
**May 11, 2015**

Testimony of the Pennsylvania Liquor Control Board (“PLCB”)

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Good morning. We would like to thank Chairman Payne and Chairman Kotik of the House Gaming Oversight Committee, Chairman Ross and Chairman Costa of the House Liquor Control Committee, and all members of both committees for inviting the Pennsylvania Liquor Control Board (PLCB) to testify this morning about the possible creation of a casino liquor license.

DISCUSSION

Unlike other unique businesses, such as public venues or performing arts facilities, casinos do not have their own unique liquor license with their own specifically defined parameters. Instead, the 12 casinos licensed under the Pennsylvania Race Horse Development and Gaming Act (Gaming Act) utilize various retail liquor licenses within their gaming facilities to provide and sell alcoholic beverages to their customers.<sup>1</sup> Certain casinos acquired retail licenses on their own and currently use them in the operation of their business. Other casinos acquired their liquor licenses under the authority of the Gaming Act, which allows the holder of a slot machine license to apply for and obtain a liquor license from the PLCB, outside of the quota system, if it does not already hold a liquor license.

Since there is no single casino license, the rights and privileges of casinos vary with regard to the sales and service of liquor. For example, those casinos who acquired a liquor license by virtue of holding a slot machine license are specifically exempted from certain requirements that are binding on all other retail licensees.<sup>2</sup>

<sup>1</sup> Attached is a chart which identifies all 12 casino operators and the liquor licenses that they hold.

<sup>2</sup> These exemptions include:

- the proximity provisions of sections 402 and 404 of the Liquor Code, which allow protests of licensing applications to be filed by licensees located within 200 feet, restrictive institutions (e.g., churches, hospitals, schools, etc.) located within 300 feet, or residents living within five hundred (500) feet of the premise;
- the prohibition against minors frequenting, as described in section 493(14) of the Liquor Code;
- the cost and total display area limitations of section 493(20)(i) of the Liquor Code; and
- meeting the statutory definition of a “restaurant” or “eating place,” as provided in section 102 of the Liquor Code.

Existing liquor license classifications may be ill-fitted to the specific needs of casino operators, since their operations are very different from those of a tavern or a restaurant. Thus, there is an opportunity to create a license classification that is tailor-made for the gaming industry, conferring upon such license holders those privileges and penalty provisions which are specifically designed for them. The decision as to whether to create a new license classification for casinos is within the discretion of the General Assembly. We would offer the following thoughts and suggestions for consideration as you determine how to proceed.

The Liquor Code and the Gaming Act grant a slot machine licensee some additional privileges beyond those of other retail liquor licensees.<sup>3</sup> Specifically, under the Gaming Act, a slot machine licensee may sell and serve alcohol on the licensed and unlicensed portions of its premises, as long as the alcohol remains on its property. Also, while the PLCB's regulations allow retail licensees to offer one free alcoholic drink per patron per offering, the Liquor Code allows a slot machine licensee to provide free drinks to any patron actively playing slots,<sup>4</sup> and an amendment to the Gaming Act extended this privilege to patrons actively playing table games. Finally, the Gaming Act exempted slot machine licensees from the mandatory suspension provisions of the Liquor Code (i.e., the "three strikes provision" for serious liquor offenses<sup>5</sup>), but increased the range of monetary penalties which could be assessed for liquor violations to \$250 – \$25,000.<sup>6</sup>

Given that representatives of the gaming industry will testify immediately after us, we do not wish to be presumptuous regarding the privileges that they would like to see included in a new casino license classification. We simply want to provide you with examples of certain issues which you may wish to consider in drafting legislation.

Casinos, like other retail licensees, may not sell or provide alcohol between 2:00 a.m. and 7:00 a.m., even though gaming activities typically occur between those times. In drafting legislation, you should consider whether casinos should be allowed to sell or provide alcohol after 2:00 a.m., and, if so, whether to extend the time or to allow sales or service any time they are open for business.<sup>7</sup> We recommend that you reach out to the Pennsylvania State Police (PSP) regarding any concerns that they may have regarding this issue, as PSP stations troopers within each casino, and therefore may be

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<sup>3</sup> The situation becomes more confusing, however, when considering that, in certain situations, the legal entity holding the slot machine license is not the same legal entity which holds the liquor license. The Liquor Code and Gaming Act provisions noted above only apply if the same entity holds both the liquor license and the slot machine license.

<sup>4</sup> 47 P.S. § 4-493(24)(ii).

<sup>5</sup> 47 P.S. § 4-471(c).

<sup>6</sup> Pursuant to section 471(b) of the Liquor Code, licensees are subject to monetary penalties of between \$50 – \$1000 for less serious violations and \$1,000 to \$5,000 for more serious violations.

<sup>7</sup> For your information, in 2013, Maryland afforded its casinos the privilege to sell alcohol 24 hours a day. Casinos in Atlantic City, New Jersey also serve alcohol 24 hours a day. New York's current gambling facilities may generally serve alcohol until 4:00 a.m., unless further restricted by county. In Ohio, casinos are required to cease alcohol sales and service at 2:30 a.m., like other bars and taverns.

in a better position to understand any potential enforcement concerns associated with extending the time of service of alcohol.

As referenced earlier, a slot machine licensee is permitted to provide free drinks to patrons, but only to those patrons who are actively playing slots or table games. Accordingly, if Harrah's wanted to provide a special bottle of wine to a patron who often frequents the casino, it may only do so when the patron is actually gambling. The practice of "comping" patrons with free alcohol, regardless of whether the patrons are actively gambling, may be appealing to a casino to encourage additional play or future patronage.<sup>8</sup> Therefore, you may want to consider expanding the current privilege.

On a related note, while casinos use "loyalty" or "rewards" programs in which players earn points based on their play and purchases, the Liquor Code prohibits the accrual and use of such points based upon alcohol purchases, as this would constitute an inducement to purchase alcohol.<sup>9</sup> This is an issue you may want to consider in drafting legislation.

Casinos are bound by the same rules regarding discount pricing practices as other retail licensees, including happy hours and discounted drink specials. Therefore, the Sugar House Casino is bound by the same happy hour restrictions as an Applebee's.

Casinos are also bound by the PLCB's regulations involving events, tournaments, or contests,<sup>10</sup> including prize limitations. Events, tournaments and contests on retail licensed premises are subject to the following rules: 1) there may be no unlawful gambling directly or indirectly associated with the event, tournament or contest; 2) there may be no consumption of alcohol by participants as part of the event, tournament or contest; 3) the price of admission may not include a charge for or entitle the participant to receive an alcoholic beverage; and 4) the value of all prizes awarded for any given event, tournament or contest may not exceed \$1,000, and the total value of all prizes awarded in a seven-day period may not exceed \$25,000. These restrictions prohibit, for example, Hollywood Casino from sponsoring an event, tournament or contest in which a car or another significant prize is offered in order to raise attendance at the event.

All of the casinos have unique, complex licensing configurations, many having multiple liquor licenses operating under its roof. For example, the casino would have a liquor license for its own areas of the casino, but any separately-owned restaurants under the casino's roof (e.g., Wolfgang Puck at Mohegan Sun at Pocono Downs) would have to

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<sup>8</sup> Based upon our research, neighboring states New York, Ohio, West Virginia and Delaware do not allow casinos to provide free alcoholic beverages to their patrons. The casinos in Atlantic City, New Jersey are allowed to provide free alcoholic beverages.

<sup>9</sup> 47 P.S. § 4-493(24).

<sup>10</sup> Events, tournaments and contests, in this context, are defined as "a competitive endeavor involving skill, speed, strength or endurance. The term includes a competitive endeavor involving physical attributes of contestants." [40 Pa. Code § 5.30].

utilize their own restaurant license to conduct their own liquor sales.<sup>11</sup> Casino operators and restaurant venues may all be able to benefit by allowing, within a single gaming facility, multiple restaurant venues to sell alcohol utilizing only the casino's liquor license (similar to what is permitted for public venue licenses). This concept, akin to an "umbrella" license, may encourage restaurateurs to establish their businesses within the casino property, without needing to purchase their own liquor license. Further, consideration should be given to allowing the owner or the operator of the casino or its designated concessionaire to apply for such an "umbrella" license.

As noted above, slot machine license holders were exempted from the *mandatory* suspension provisions of the Liquor Code (i.e., the "three strikes provision"). However, a slot machine licensee may nevertheless be suspended by the Office of Administrative Law Judge (OALJ) under the OALJ's general authority to suspend or revoke a license.<sup>12</sup> A casino which is suspended by the OALJ as a result of a citation would stand to lose the right to sell alcohol at the casino's premises, resulting in the loss of significant amounts of revenue and a decrease in slot machine and table games play.<sup>13</sup> You may want to consider whether to provide a complete exemption from the license suspension provisions of the Liquor Code. Recall that the range of monetary penalties which may be assessed against slot machine licensees for liquor violations is between \$250 and \$25,000. Subjecting such licensees to more significant fines for unlawful conduct, especially for repeated violations of sales to minors and visibly intoxicated persons, could become an effective deterrent against such conduct.

Finally, if you create a casino license, you will need to determine whether the legislation will require that current casino operators obtain these new licenses. You will also need to determine what a casino operator may be allowed to do with its existing liquor license upon acquiring the casino liquor license. If the casino acquired its liquor license on the open market under the quota system, it should be allowed to place the liquor license into safekeeping upon approval of its casino license, after which it may be transferred to another location or to a third-party. If, in the alternative, the casino acquired its liquor license pursuant to the Gaming Act, outside of the quota system, the liquor license could simply be surrendered to the PLCB upon the approval of the new casino license.

If the unique needs of the casino industry are to be addressed by creating a casino liquor license, we believe that the cost associated with the license should reflect the value of any additional privileges which you decide to confer.

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<sup>11</sup> See attached chart which details this information for each casino.

<sup>12</sup> 47 P.S. § 4-471(b) and (c).

<sup>13</sup> It should be noted that it is the OALJ, and not the PLCB, which would decide to impose a suspension upon a licensee as a result of any citation that may be issued by the Pennsylvania State Police, Bureau of Liquor Control Enforcement. The PLCB is not aware of any situation in which a casino licensee has been suspended for violating the Liquor Code or the PLCB's regulations.

## SUMMARY

There is currently no liquor license specifically designed for casinos. Instead, the 12 casinos utilize restaurant liquor licenses within their gaming facilities to provide and sell alcoholic beverages to their customers. While casinos are afforded additional privileges under the Liquor Code and the Gaming Act, as noted in our testimony, they are otherwise subject to the same restrictions as holders of restaurant liquor licenses, despite their unique operations and licensing configurations. As you consider whether to create a new casino license, we would offer the following issues for your deliberation:

- whether to allow the sale/service of alcohol after 2:00 a.m., and, if so, whether to simply extend the time (i.e., 4:00 a.m.) or to allow sales or service at any time they are open for business (i.e., “24/7”);
- whether to allow service of free drinks to patrons at any time, regardless of whether they are actively playing slots or table games (i.e., “comping” patrons with free alcohol);
- whether to allow the accrual of “loyalty” or “rewards” points based upon a patron’s alcohol purchases;
- whether to exempt casinos from the rules regarding discount pricing practices (e.g., happy hours, daily drink specials) applicable to all other retail licensees;
- whether to exempt casinos from the regulations involving “events, tournaments, or contests,” including the prize limitations (the value of all prizes awarded for any given “event, tournament or contest” may not exceed \$1,000, and the total value of all prizes awarded in a seven-day period may not exceed \$25,000);
- whether to allow multiple restaurant venues to sell alcohol utilizing only the casino’s liquor license (i.e., separately-owned restaurants would be able to sell alcohol under the casino’s “umbrella” license);
- whether to provide a complete exemption from the license suspension provisions of the Liquor Code, while at the same time imposing more significant fines for unlawful conduct, especially for repeated violations of sales to minors and visibly intoxicated persons; and
- whether to require that current casino operators obtain the new casino licenses, and if so, whether a casino operator may be allowed to retain its current liquor license if it was purchased on the open market under the quota system, and whether liquor licenses issued outside of the quota system (pursuant to the Gaming Act) should simply be surrendered to the PLCB.

Thank you for the opportunity to address you this morning, and we would be happy to answer any questions you may have at this time.

## Existing Casinos in PA

Source: Oracle BI System

Trade Name	Full Name	Licensee ID	Legal Identifier	Category	City	County	Associated Licenses W/I Casino	Management Company
SANDS CASINO RESORT BETHLEHEM	SANDS BETHWORKS GAMING LLC	61338	R 21495	2	BETHLEHEM	NORTHAMPTON	Chopsticks Asian Cuisine Inc R 7018/67170 Villa Pizza of Pa Inc R 9268/65707 Vision Entertainment Group LLC T/N Vision Bar R 7458/66375	
(known as Mohegan Sun)	NORTHEAST CONCESSIONS L P	54136	R 15046	1	WILKES BARRE	LUZERNE	BL Restaurant Operation LLC T/N Bar Louie R 2266/63403 Metz Concepts LLC R 17521/70042 Viva Hospitality Inc R 5422/70964 No Limits Steaks LLC T/N Ruth Chris Steakhouse R 2808/60220 Metz Concepts LLC T/N Wolfgang Puck R 11386/60474 Crossroads Vineyard & Winery LK164-3/49005	Downs Racing LP, Sun Rustic
HARRAHS CHESTER CASINO & RACETRACK	CHESTER DOWNS MARINA LLC	56931	R 21484	1	CHESTER	DELAWARE	No other licenses	Harrahs Chester Downs Mngt Company LLC
RIVERS CASINO	HOLDINGS ACQUISITION CO L P	61521	R 21496	2	PITTSBURGH	ALLEGHENY	No other licenses	
VALLEY FORGE CASINO RESORT	VALLEY FORGE CONVENTION CENTER	65599	R 21500	3	KING OF PRUSSIA	MONTGOMERY	No other licenses	
MOUNT AIRY CASINO RESORT	MOUNT AIRY #1 LLC	58915	R 21492	2	MOUNT POCONO	MONROE	Mount Airy #1 LLC PGR 320/64784 Mount Airy #1 LLC H6265/64789 Momentum Hospitality Mt Airy LLC, T/N Guys Mt Pocono Kitchen R 20786/70047	
(known as Parx)	RACETRACK FOOD SERVICES INC	46026	R 20111	1	BENSALEM	BUCKS	CPC Bucks County LLC T/N Chickie & Pete's, R 19926/63760	
(known as The Meadows)	CCR PENNSYLVANIA FOOD SERVICE INC	41100	R 12523	1	MEADOWLANDS	WASHINGTON	No other licenses	
HOLLYWOOD CASINO AT PENN NATL RSCRSE	MOUNTAINVIEW THOROUGHBRED RACING	68702	R 21493	1	GRANTVILLE	DAUPHIN	Mountainview Thoroughbred Racing T/N Mane Event Simulcast Theatre, R 20041/68705	
SUGAR HOUSE CASINO	SUGARHOUSE HSP GAMING LP	63802	R 21498	1	PHILADELPHIA	PHILADELPHIA	No other licenses	
PRESQUE ISLE DOWNS	PRESQUE ISLE DOWNS INC	57650	R 21487	2	ERIE	ERIE	No other licenses	
LADY LUCK CASINO NEMACOLIN	WOODLANDS FAYETTE LLC	68453	R 21520	3	FARMINGTON	FAYETTE	No other licenses	IOC PA LLC