

**House Gaming Oversight Committee
Testimony**

**Pennsylvania Department of Revenue
March 15, 2016**

Chairman Payne, Chairman Kotik and members of the committee, thank you for the opportunity to submit remarks regarding the Department of Revenue's role in the proposed legislation for the administration of Tavern Games under the Local Options Small Games of Chance Act.

The Department of Revenue currently has limited administrative authority and responsibility under the Local Option Small Games of Chance Act. The proposed legislation would significantly expand our authority by transferring licensing and background investigation responsibilities to the department. After careful consideration, the Department of Revenue is opposed to the legislation.

By way of background, the Act establishes regular reporting requirements for licensed distributors of small games of chance and taverns that conduct small games of chance. Licensed distributors that sell pull-tab games to a licensed tavern are required to file a monthly tavern games tax return and schedule with the Department of Revenue. Along with certain demographic information, the return must include the 60 percent state tax and five percent host municipality tax of the net revenue from tavern games sold to a tavern licensee. The accompanying schedule provided by the distributor must also include information regarding the municipality where the tavern games were sold, the total amount of net revenue and the total tax due.

However, not all tavern games must be purchased through those distributors. In those instances, taverns licensed by the Pennsylvania Liquor Control Board (PLCB) are required to collect the 60 percent state tax and a five percent host municipality tax on the net revenue of those games. The tavern's quarterly return must include the net revenue from daily drawings and monthly raffles, the 60 percent state tax and 5 percent host municipality tax. In addition to the quarterly returns, the Act requires taverns to file an annual report detailing the type of games sold, the net proceeds and the total tax remitted to the department.

The legislation proposed would amend the Local Options Small Games of Chance Act. The proposed tavern game changes include the following:

- Transfer licensing and background investigation responsibilities from the PLCB and the Pennsylvania Gaming Control Board's (PGCB) Bureau of Investigations and Enforcement to the Department of Revenue;
- Reduce the annual renewal fee from \$1,000 to \$500;
- Eliminate the \$1,000 investigative fee, and;

- Codify previous Fiscal Code changes which reduced the \$2,000 license fee due upon approval to \$500, and maintain the application fee and make it payable to the department;
- Add tavern weekly drawings to approved games;
- Add “eating place licensee” as a category of liquor license holder eligible to apply for a license to conduct tavern games;
- Allow a deduction for the cost of the game from the face value of the game to calculate net revenue;
- Reduce the tavern game tax rate from 60 percent to 55 percent;
- Revise the distribution of net revenue from tavern raffles and tavern games. The commonwealth’s share would be reduced from 60 percent to 50 percent, while the licensee’s share would increase from 35 percent to 45 percent. The five percent host municipalities share is unchanged;
- Reduce detail requirements in the annual report, reduce the amount of civil penalties, remove the criminal penalty, and add detail on conditions that would result in revocation of a license.

As was already stated, the Department of Revenue is opposed to this proposed legislation. Our primary concern is with the transfer of licensure responsibilities to the department. In order to qualify as a tavern, an entity must be licensed by PLCB. It’s the department’s position that the PLCB would be much more qualified to determine if a tavern is eligible for licensing than the department. PGCB agents, similarly, have the experience and expertise to investigate applicants and this function should remain with the PGCB.

All of the changes made in the bill also have a fiscal impact. The department estimates a combined impact of more than \$300,700 to the General Fund and to host municipalities starting in fiscal year 2016-17 and projecting forward. Administrative costs are estimated to be more than \$500,000.

It’s the department’s and the administration’s position that all legislation with a fiscal impact should be discussed within the context of the budget.

Finally, we would like to point out language in the bill that should be clarified.

It is unclear if the 55% tax rate is inclusive of the 5% host municipality tavern games tax or if the 5% is in addition to the 55%.

And, as for the licensing fees, greater clarity is needed in the Act to properly reflect previous changes made in the Fiscal Code which reduced licensing fees to \$500. To eliminate confusion, the \$500 licensing fee should be explicitly delineated in the language.

A great amount of time, effort and resources were expended in establishing the licensing procedure for tavern games and the commonwealth will have to incur costs that were expended when tavern gaming was first introduced.

I thank the committee for the opportunity to offer this testimony, and I look forward to addressing your questions.