

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

GAMING OVERSIGHT COMMITTEE
PUBLIC HEARING

STATE CAPITOL
HARRISBURG, PA

IRVIS OFFICE BUILDING
ROOM G-50

TUESDAY, MAY 3, 2016
9:00 A.M.

PRESENTATION ON
SMALL GAMES OF CHANCE IMPROVEMENTS

BEFORE :

HONORABLE JOHN PAYNE, MAJORITY CHAIRMAN
HONORABLE ROSEMARY BROWN
HONORABLE RUSS DIAMOND
HONORABLE SUE HELM
HONORABLE KATE ANNE KLUNK
HONORABLE RYAN MACKENZIE
HONORABLE KURT MASSER
HONORABLE ERIC NELSON
HONORABLE TEDD NESBIT
HONORABLE JASON ORTITAY
HONORABLE DAVID PARKER
HONORABLE JAMIE SANTORA
HONORABLE RYAN WARNER
HONORABLE TINA DAVIS
HONORABLE DANIEL DEASY
HONORABLE MARTY FLYNN
HONORABLE ED GAINNEY
HONORABLE SID KAVULICH
HONORABLE WILLIAM KORTZ, II
HONORABLE ED NEILSON

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*Pennsylvania House of Representatives
Commonwealth of Pennsylvania*

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SUBMITTED WRITTEN TESTIMONY

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(See submitted written testimony and handouts online.)

1 P R O C E E D I N G S

2 * * *

3 MAJORITY CHAIRMAN PAYNE: I'd like to call the
4 House Gaming Oversight Committee to order. We'll stand for
5 Pledge of Allegiance.

6
7 (The Pledge of Allegiance was recited.)

8
9 MAJORITY CHAIRMAN PAYNE: Roll call, please.

10
11 (Roll was taken.)

12
13 MAJORITY CHAIRMAN PAYNE: Yes, for the record,
14 Chairman Kotik saw me about a half-an-hour ago, said he
15 will be here. He's running about 10, 15 minutes late, but
16 he will be here.

17 Thank you.

18 This morning, we have -- and I'm pretty sure you
19 guys are all sitting together, correct?

20 UNIDENTIFIED SPEAKER: We're all here,
21 Mr. Chairman.

22 MAJORITY CHAIRMAN PAYNE: Thank you very much.
23 We appreciate that. Mike, Tony, Jonathan, if you'd please
24 come up. Today's hearing is on the small games of chance,
25 both if you will today and in the future. And I'm excited

1 about your presentation.

2 MR. PHILBIN: Chairman Payne and Members of the
3 Committee, my name is Mike Philbin, and on behalf of the PA
4 Gaming Alliance, I want to thank you for the opportunity to
5 appear before you again this time to discuss small games of
6 chance in Pennsylvania.

7 We talked before, the laws have not been changed
8 since 1989, and the ideas that we're going to give you
9 today are things that all the other States around us are
10 doing that Pennsylvania is just sort of behind the times.

11 Our group represents approximately 100
12 manufacturers and distributors throughout Pennsylvania, and
13 there's a lot of distributors that go outside -- John Smith
14 is one of the largest distributors if not the largest
15 distributor in our country, so he's got a number of States.
16 So he'll speak on how he deals with the laws in other
17 States.

18 Tony is a manufacturer in Pennsylvania out in
19 Wheatland, Pennsylvania, and he'll talk about the
20 manufacturing end of what we do.

21 I'm trying to save you some time because I do
22 want to show you some things that we didn't have here.

23 MAJORITY CHAIRMAN PAYNE: Yes, CliffsNotes
24 testimony is --

25 MR. PHILBIN: Right.

1 MAJORITY CHAIRMAN PAYNE: -- fine with the
2 Committee --

3 MR. PHILBIN: Okay.

4 MAJORITY CHAIRMAN PAYNE: -- I'm sure, and we're
5 anxious about your actual visuals.

6 MR. PHILBIN: Back in 1988 is when most of these
7 laws were enacted. So one of the things that they enacted
8 was a \$35,000 -- well, that's one thing. It was 25, now
9 it's \$35,000 weekly payout. And what the \$35,000 weekly
10 payout means is if a game has 4,000 tickets and they sell
11 for a dollar a piece, the club will pay out \$3,000. The
12 club will make \$1,000 in profit; hence the \$3,000 is what
13 is added up to the \$35,000. Most midlevel to upper-level
14 clubs meet that by Thursday or Friday of the week. And
15 honestly, I don't know why they ever put that in there.

16 One of the key things that is in there is that
17 you're supposed to pay out 65 percent of whatever you take
18 in. So one of the things that we would propose to you is
19 there's no limit to how much they can pay out. that's
20 going to generate more money for the charities, as well as
21 the fire companies and the clubs that are involved.

22 Most of the States don't have limits. Around us,
23 West Virginia, Ohio, Virginia, New York, Kentucky, New
24 Jersey, none of those States have a maximum amount that the
25 club can pay out in a week.

1 I mentioned earlier that a lot the tickets that
2 we sell have 4,000 tickets. Back in 1988, and I've been
3 doing this even before '88, we weren't even close to 4,000
4 tickets. Most of the games were 2,000, 2,500. So I'm
5 assuming they just went higher because they thought that it
6 would progress to that. Today, outside of Pennsylvania,
7 there's 12,000 count, 25,000 count, but they're still
8 paying out the 65 percent so it doesn't really matter that,
9 you know, the player is still getting -- in fact, a lot of
10 times where it's 75 and 80 percent when we get up to those
11 high counts because want to turn over the tickets and keep
12 the players playing. So one of the things we would propose
13 is to eliminate the number of tickets in the game.

14 The one thing that I'm going to show you today is
15 -- we've talked about progressives and we've talked about
16 subsets. This game here is a subset. Now, what that means
17 is if we use the 4,000, there's 4,000 tickets in this whole
18 box, and what the manufacturer has done is put 200 tickets
19 in each bag. The reason why this is important is the small
20 fire companies that maybe don't have a lot of people
21 playing bingo can sell 200 tickets without a problem, and
22 they can offer in this case \$500 in prizes and keep the
23 players playing.

24 So what happens is they sell the 200 tickets, the
25 people will get a ticket that has what they call a holder.

1 It says a number. Like this one says number 13. So the
2 person would sign their name here saying that's their
3 number. So after all these 200 tickets are sold, they'll
4 pop this seal. And when they pop the seal, it says number
5 3 is the person. So the number 3 gets to come over to this
6 board and pick a seal.

7 Now, Department of Revenue, even though it's
8 4,000 tickets, the whole game pays out 75 percent.
9 Department of Revenue has decided that they don't like
10 subsets because if the person wins \$75, okay, this game is
11 only paid out 44 percent. If the person wins the \$500,
12 it's paid out 256 percent. But when you add it all
13 together as one game, it's 75 percent is what they're
14 paying out. And you go to other States and this is a big
15 game for them, as I say, especially for the small clubs
16 because they don't have to sell all this in one night.
17 They can sell one or two or three, get some play, and maybe
18 next week the \$500's are still there so the people will buy
19 even more, just as when the lottery numbers go up, then
20 that's when the people play more.

21 So that's what a subset is. Does anybody have
22 any questions on the subset before I --

23 MAJORITY CHAIRMAN PAYNE: Anybody on the
24 committee have questions at this stage? Hold on.

25 Representative Kavulich?

1 REPRESENTATIVE KAVULICH: Thank you. Thank you,
2 Mr. Chair. Thank you, Mr. Chairman.

3 If it's not played all at once as you said, if
4 they don't have a big winner the first week, if you do have
5 the big winner the first week, does it knock down the sales
6 in subsequent weeks?

7 MR. PHILBIN: No, because there's still enough
8 bigger winners here.

9 REPRESENTATIVE KAVULICH: Oh, okay.

10 MR. PHILBIN: Now, if all the big winners are
11 here, what would probably happen is they'd probably finish
12 that game once all the bigger winners and then bring a new
13 game out. But they carry it from week to week until the
14 game's completely done or the only thing left -- maybe
15 there's only two \$75 winners left and they know that, so
16 the club will -- and the State allows that to discontinue
17 the game and bring out a new game to restart the process.

18 REPRESENTATIVE KAVULICH: And you said these are
19 very popular in other States?

20 MR. PHILBIN: Yes. We used to run them in
21 Pennsylvania until the Department of Revenue decided that
22 you weren't allowed to have subsets, and it was one of our
23 biggest sellers. This is 10 or 12 years ago, maybe longer.

24 MAJORITY CHAIRMAN PAYNE: Sure. Representative
25 Neilson?

1 REPRESENTATIVE NEILSON: Thank you, Mr. Chairman.

2 That's exactly where I'm going. So the
3 Department of Revenue, even though you say the payout meets
4 our standards and you don't stop selling these tickets so
5 it's not like -- and they just decided to do that?

6 MR. PHILBIN: It isn't part of the regulations.
7 Under pull-tab manufacturing standards, every other -- I
8 shouldn't say every other -- most of the States allow this.
9 They have in here that a deal may not be segregated into a
10 sub-deal or portions as part of -- the deal may be
11 distinguished or played separately from the rest of the
12 game.

13 REPRESENTATIVE NEILSON: So is that legislative
14 change or a regulation change?

15 MR. PHILBIN: I think that's a regulative --

16 REPRESENTATIVE NEILSON: Do you have a copy of
17 that for the chairman --

18 MR. PHILBIN: Sure. Yes.

19 REPRESENTATIVE NEILSON: -- so he can get that to
20 us, please?

21 MR. PHILBIN: Yes.

22 REPRESENTATIVE NEILSON: Thank you. Thank you,
23 Mr. Chairman.

24 MAJORITY CHAIRMAN PAYNE: See that Josiah gets
25 that and we'll run --

1 MR. PHILBIN: Yes.

2 MAJORITY CHAIRMAN PAYNE: We'll scan it and send
3 it out to all the Members.

4 MR. PHILBIN: Okay.

5 REPRESENTATIVE NELSON: So that I understand --

6 MAJORITY CHAIRMAN PAYNE: Anybody else?

7 REPRESENTATIVE NELSON: Yes, right behind you,
8 sir. Sorry, Mr. Chairman.

9 MAJORITY CHAIRMAN PAYNE: No, that's all right.

10 REPRESENTATIVE NELSON: But given a scenario
11 where you would potentially have three rounds of tickets
12 sold, two \$75's and, let's say, a \$200, what would that
13 percentage be as compared to the requirement? Because in
14 those games, shouldn't the purse or the total winning
15 increase as the volume of revenue --

16 MR. PHILBIN: Yes.

17 REPRESENTATIVE NELSON: -- as part of that
18 game --

19 MR. PHILBIN: Yes. I mean, if somebody won --
20 now, what they're looking at is one game, so, as I said, if
21 the \$75 is won, it's 44 percent. If they win \$100, it's 57
22 percent. If they win the \$200, it's 106 percent. And then
23 the \$500 is 246 percent.

24 MR. SMITH: But the final payout and profit is
25 defined and does not change. Once all the subsets are

1 sold, it is a defined profit and payout, just like any
2 other pull-tab game.

3 REPRESENTATIVE NELSON: Is that where the
4 conflict --

5 MR. PHILBIN: Yes.

6 REPRESENTATIVE NELSON: -- rests?

7 MR. PHILBIN: They look at this as being a deal
8 and not looking at all of this --

9 MR. ARCHIBALD: Mr. Chairman?

10 MR. PHILBIN: -- even though they're all the same
11 serial number. Every one is the same serial number, and it
12 has a letter after it so we know there's 20 games.

13 REPRESENTATIVE NELSON: Well, just as a follow-
14 up, so the percentage actually is diluted to the player, is
15 that correct, in the overall -- if you have three series of
16 games and you're selling three sets of those tickets and
17 you have two \$75's and a \$200, then what would the
18 percentage of payout across those three games be?

19 MR. PHILBIN: Well, it would probably be more
20 like 50 or 60 percent, but you still have the bigger
21 winners. The fire company makes \$990. The only thing that
22 they're going to do is make maybe \$100 or \$200. Let's say
23 they paid the \$75, okay. They're going to make \$125.
24 They're not going to end it. That's about what this game
25 costs, okay? So they're not going to end it. They've got

1 to keep going to get their \$900. So even if -- as I said,
2 if a couple \$75's are left and people stop playing it, so
3 they're going to lose \$400 in sales or about \$200 in profit
4 by pulling it early. But they've still made the
5 percentage. They've still paid out the 75 percent or
6 actually probably more.

7 MR. ARCHIBALD: Mr. Chairman, if I could
8 interject, and good morning to the panel. My name is Bob
9 Archibald. I work at Stevens & Lee. We do government
10 affairs consulting for the Pennsylvania Gaming Alliance.

11 To Representative Neilson's point bringing up
12 that the subsets are prohibited by regulation, there's
13 several things we're recommending here today that are
14 prohibited only by regulation, not by the act. Our
15 suggestion is that we seek statutory changes to those
16 things that would then supersede the regulation that exists
17 now.

18 MAJORITY CHAIRMAN PAYNE: Thanks for the
19 clarification.

20 Continue with the testimony.

21 MR. PHILBIN: Okay. So --

22 MAJORITY CHAIRMAN PAYNE: Our next person or --

23 MR. PHILBIN: Well, I have got a couple more
24 things for you.

25 MAJORITY CHAIRMAN PAYNE: Go ahead.

1 MR. PHILBIN: So the next thing that we had
2 talked about is progressive games, and what a progressive
3 game is, most of the time it's a small-count game like this
4 that maybe has 3 or 400 tickets. It has a little card
5 maybe about this size that may have 20 windows on it.
6 Under the windows, it's either going to say loser or
7 jackpot. So the hall sells this game and it says you're
8 either going to win \$200 or you're going to win \$100, okay?
9 If you win and they pull your number, you come up here and
10 you say, okay, I want this one, it says you lose. So the
11 consolation prize is \$100. And then what they do is take
12 that other \$100 and it goes to the next game. So they pull
13 the next game out, now, it's worth \$300, okay? And they
14 play the game, pull the seal. If it says loser again, that
15 person gets \$100, okay, and then the next game is worth
16 \$400. So there's a consolation prize or there's the
17 jackpot, and it just keeps going until somebody pulls the
18 one that says jackpot on it.

19 REPRESENTATIVE NEILSON: And it's mandatory that
20 somebody has to win?

21 MR. PHILBIN: Yes. Yes. And a lot of times what
22 happens is like if it gets up to \$300, you know, there's
23 300 tickets in this game, in the game that you would play
24 as the jackpot, 3 or 400 tickets depending on which one.
25 So you would have an opportunity -- nobody does it; the

1 hall wouldn't allow it -- buy all the tickets and you could
2 still not win. You'd only win \$100. So the whole idea is
3 to keep that money going just like the lottery goes up
4 every week to bring the people back into the bingos for the
5 fire companies to generate more money.

6 A couple weeks ago when we talked about
7 progressives for bingos, a progressive for bingo, the bingo
8 has got to put the money up and hope that it doesn't get
9 hit until they make enough money. A progressive and small
10 games, that money is being set back from the games that are
11 already being sold.

12 Any questions on that?

13 MAJORITY CHAIRMAN PAYNE: Any other questions?

14 Yes, Representative Masser.

15 REPRESENTATIVE MASSER: On the progressive and
16 you said there's windows like similar to that?

17 MR. PHILBIN: Yes.

18 REPRESENTATIVE MASSER: How many windows would
19 you be talking about?

20 MR. PHILBIN: Usually it's about 15. John, is
21 that about right?

22 MR. SMITH: It can be as few as six and as many
23 as 50.

24 REPRESENTATIVE MASSER: Okay. Thank you.

25 MAJORITY CHAIRMAN PAYNE: Other questions?

1 Okay. We'll go down to the next presenter.

2 MR. PHILBIN: Okay. So my last thing is that one
3 of the things in our industry you guys believe that we
4 should pay attention to, and that is the accountability to
5 the clubs, the clubs' accountability to the money they take
6 in. Department of Revenue, more Liquor Control has decided
7 that they cannot use any of the gross proceeds to buy
8 ticket machines. A ticket machine is a machine that they
9 maybe put on a wall and all the tickets are put in there,
10 and it tracks every dollar that goes in, okay? And then
11 what they do is they take the ticket to the bartender and
12 the bartender pays it out.

13 There's a number of point-of-sale software
14 systems out there that tracks all the gaming, all the sales
15 in just like they were selling a hamburger or a hot dog, by
16 serial number. The Department of Revenue -- well, I can't
17 say it's Department of Revenue -- Liquor Control will not
18 allow the clubs to use the gross proceeds to buy these
19 systems.

20 We believe that's going to help out the clubs.
21 Believe it or not, we don't make a ton of money in these
22 things because a lot of times they won't sell gambling
23 because somebody's been stealing from them. So they put
24 these machines in, and that helps them make it more
25 accountable.

1 So the idea right now is if they made \$1,000 on
2 this game, 60 percent has to be donated and they're left
3 with \$400. They're trying to run the club with that \$400.
4 What we would propose is to allow the clubs to take that
5 \$1,000 and buy a ticket machine or buy accounting software
6 or pay an accountant or do something so that somebody can
7 pay attention besides the manager of what's going on with
8 the money. And it's not allowed right now. We've gone
9 from they say it's okay to, well, now you can do half, now
10 you can't do any. And part of the reasoning is that it
11 tracks beer sales and food sales also, so can they use the
12 gambling money to track beer sales? It's just part of the
13 process.

14 MAJORITY CHAIRMAN PAYNE: Is this another
15 directive, because it's certainly not part of the act.

16 MR. PHILBIN: No, it's an interpretation from
17 Liquor Control.

18 MAJORITY CHAIRMAN PAYNE: And it's frustrating
19 because I would think we want as much electronic checks and
20 balances as possible instead of human not just for money
21 that's not accounted for but also to control the underage
22 problem.

23 MR. PHILBIN: It tells them what -- Liquor
24 Control has a list of what they can spend it on.

25 MAJORITY CHAIRMAN PAYNE: All right.

1 MR. PHILBIN: That's not in there.

2 MAJORITY CHAIRMAN PAYNE: Questions?

3 REPRESENTATIVE NEILSON: Yes, Mr. Chairman.

4 MAJORITY CHAIRMAN PAYNE: Yes.

5 REPRESENTATIVE NEILSON: If I may?

6 MAJORITY CHAIRMAN PAYNE: Representative Neilson,
7 sure.

8 REPRESENTATIVE NEILSON: Yes. Right around where
9 you're going, because I saw right up the street here the
10 VFW up on 6th Street, they have all the machines there,
11 which makes it -- because they had issues within the
12 facility of this one might -- money disappearing. And it's
13 kept it all tracking so the board can track it better?

14 MR. PHILBIN: Yes.

15 REPRESENTATIVE NEILSON: And we're saying that
16 the LCB's interpretation is we don't need them?

17 MR. PHILBIN: No, that you can spend --

18 REPRESENTATIVE NEILSON: They can't have them?

19 MR. PHILBIN: -- the money. So if this game made
20 \$1,000 and let's say I sold 10 of them, okay, so that's
21 \$10,000, so I want to go out and buy a ticket machine,
22 okay, I can only buy the ticket machine out of the club's
23 net proceeds, okay? They don't go out and buy them once a
24 year. It's not that. They don't buy new software once a
25 year. There may be some maintenance fees or something on

1 the software. But all this is for tracking.

2 REPRESENTATIVE NEILSON: Tracking.

3 MR. PHILBIN: And what they're doing is their
4 interpretation is that it doesn't say it in the regulations
5 that you can buy that equipment with it.

6 REPRESENTATIVE NEILSON: It doesn't say
7 specifically that you can use those proceeds to do the
8 accounting and all that?

9 MR. PHILBIN: Right, the gross proceeds --

10 REPRESENTATIVE NEILSON: Gross proceeds, okay.

11 MR. PHILBIN: -- meaning that they're going to
12 take it out off the top before they do the split.

13 REPRESENTATIVE NEILSON: And I would assume
14 that's part of the changes that we're seeking, correct?

15 MR. PHILBIN: Correct.

16 REPRESENTATIVE NEILSON: All right. Thank you.

17 Thank you, Mr. Chairman.

18 MAJORITY CHAIRMAN PAYNE: Representative Diamond?

19 REPRESENTATIVE DIAMOND: Thank you, Mr. Chairman.

20 There's been a lot of numbers thrown around here,
21 so I just want to clarify for the record for anybody who's
22 watching at home. The game you've brought, you can't sell
23 that in Pennsylvania, is that --

24 MR. PHILBIN: Correct.

25 REPRESENTATIVE DIAMOND: -- correct?

1 MR. PHILBIN: Yes.

2 REPRESENTATIVE DIAMOND: Because it's a subset
3 game?

4 MR. PHILBIN: Correct.

5 REPRESENTATIVE DIAMOND: Okay. The winnings the
6 clubs take, none of that is taxed, is that correct?

7 MR. PHILBIN: Is the profit taxed, no. If the
8 club is taxable, if it's an elks or an eagles, they pay a
9 sales tax on purchasing it.

10 REPRESENTATIVE DIAMOND: Right. So I'm
11 interested in just clarifying where the Commonwealth gets a
12 revenue stream out of these sorts of games.

13 MR. PHILBIN: They don't.

14 REPRESENTATIVE DIAMOND: They don't at all?

15 MR. PHILBIN: No.

16 REPRESENTATIVE DIAMOND: This is just to allow
17 the clubs to be more financially secure?

18 MR. PHILBIN: Well, no, because the clubs are
19 donating 60 percent of their money --

20 REPRESENTATIVE DIAMOND: Correct.

21 MR. PHILBIN: -- to the charities so --

22 REPRESENTATIVE DIAMOND: Correct. Correct.

23 MR. PHILBIN: -- and that's a big deal,
24 especially in our area when, you know, they can't get a
25 baseball field fixed and a Polish club donates money to get

1 that out of --

2 REPRESENTATIVE DIAMOND: Right. Right.

3 MR. PHILBIN: -- their 60 percent.

4 REPRESENTATIVE DIAMOND: And that's benevolent
5 and I'm totally in favor of that. I just want to clarify
6 that the Commonwealth is not deriving a revenue stream
7 directly from these games other than sales tax in the --

8 MR. PHILBIN: Correct.

9 REPRESENTATIVE DIAMOND: Okay. Thank you.

10 MAJORITY CHAIRMAN PAYNE: Thank you. Just for
11 the record, Representative Davis, Kavulich, Nelson, Warner,
12 Deasy, Parker, and Flynn have joined the public hearing
13 since we took roll call.

14 MR. PHILBIN: Okay. That's the end of my
15 testimony.

16 MAJORITY CHAIRMAN PAYNE: Okay. We're up.

17 MR. DEVITZ: Good morning, Chairman, Committee
18 Members --

19 MAJORITY CHAIRMAN PAYNE: CliffsNotes.
20 CliffsNotes.

21 MR. DEVITZ: Oh, yes.

22 MAJORITY CHAIRMAN PAYNE: Thanks.

23 MR. DEVITZ: I got you. Staff, gallery, Mike
24 indicated earlier my name is Tony Devitz, and I'm a part of
25 the management team at Paramount Games for the sales

1 department. We manufacture the pull tabs not quite like
2 these. We do the little paper slips that you tear open and
3 we still give the same kind of prizes. And they're used by
4 fundraising and charities, nonprofits, taverns all across
5 the country. We're located in Wheatland, Pennsylvania, and
6 we are the only charitable gaming manufacturer in
7 Pennsylvania.

8 We began the company in 1995. Over those 21
9 years we've grown from three employees to just shy of 100
10 as of today. Most of those people are Pennsylvania
11 residents. We have a little joke where we're so close we
12 can almost spit on Ohio, you know, so we have a little over
13 on both sides.

14 We're proud of what the company has become.
15 We're a positively recognized and respected employer in our
16 community. We have distributors who sell our product in 15
17 States, including the neighbors Ohio, New York, West
18 Virginia, Delaware, and Maryland.

19 I grew up right here in Lebanon County, so I'm
20 pretty proud to have a multimillion-dollar company that's
21 able to furnish these kinds of things for the charities
22 across our nation.

23 Pennsylvania hosts at least 6,200 licensed
24 entities, the clubs, the taverns, the charities that we're
25 talking about this morning. My concern is that their

1 continued success is predicated on a system that's not
2 exactly user-friendly, and it's more restricted for those
3 clubs, the taverns, so forth.

4 I'm going to step away from the CliffsNotes so
5 that Representative Payne doesn't get upset with me.

6 Those groups -- well, I'm very proud to be able
7 to say that surrounded today I have three of my largest
8 distributors. To my left is John Smith from Lancaster
9 Bingo, and he's arguably the largest distributor in the
10 country. And he is one of our customers.

11 Unfortunately, at one point or another I've
12 probably said to them or at least will they're really not
13 my customer. I take him to dinner. We talk real nice. We
14 attend different events together. But really the people
15 who are my customer are those who sit in the seats and the
16 barstools in the clubs, the legions, the VFWs, the bingo
17 halls. Those are the people I want to take care of. Those
18 are your customers, too, because you wouldn't be sitting in
19 those seats and I wouldn't be sitting in this seat without
20 them.

21 We need to make sure they raise the money. Those
22 are the men and women who have after-school programs for
23 underprivileged children, they're the men and women who run
24 into burning buildings. They're the men and women who go
25 off to fight for our freedom. Those are our customers and

1 that's who we have to make sure to make more money for so
2 they can do the charitable good that they want to do in our
3 country, in our State.

4 So back to the CliffsNotes. There's
5 approximately 13 larger manufacturers of small gaming in
6 the United States. We are one of them. And every one of
7 us has to submit to the Department of Revenue every game
8 that we manufacture. We send a flare, which is similar to
9 this. A flare is essentially the roadmap of the game. It
10 tells you who's going to win what, how many win each time,
11 and all the way down through. They tell you the ticket
12 count, what your profit is, what your payout should be, all
13 the pertinent information.

14 I submit at least 50 of those a week to two young
15 ladies in the Department of Revenue. If there's 13 of us
16 in the country only doing 50 games, you're looking at at
17 least 33,000 games that they look at in a year's time.
18 They do a fantastic job considering, but it's a little
19 redundant at best.

20 I can take this game, make it the exact same way,
21 call it Pig Pile one day, Pig Pen the next day, and John
22 Payne's Happy Game the next, but I have to submit it each
23 and every time. There are States that consider that to be
24 a family, so I only get it approved once and then I can
25 just keep sending it out onto the streets because it's

1 already been approved. That's the kind of thing that we're
2 recommending here in Pennsylvania. It's obviously going to
3 be a lot easier on the Department of Revenue, and it's
4 going to save them a little bit of money because they don't
5 have the administrative nightmare that they have right now.

6 There's only three States in the country that
7 have you do the approvals. It's New York, Minnesota, and
8 Pennsylvania. What we suggest is what every other State
9 does, and it's self-police. By self-policing, in
10 Washington, for example, you can send in whatever you'd
11 like, but if you have a problem, there's no less than a
12 \$100 fine going to come your way whether it's forgetting to
13 put a flare in a bag or forgetting to put the State's stamp
14 onto a flare, something like that. You pay \$100
15 automatically.

16 So obviously, number one, from a financial
17 standpoint, you don't want to do it. Number two, you don't
18 want the other States to find out because if you're a
19 manufacturer of small games of chance or charitable gaming
20 depending on where you are in the Nation, the other States
21 are going to find out as well.

22 We have regulators come into our facility from
23 Minnesota, North Dakota, Washington, and I think New York
24 was there as well. They make sure the facility is the way
25 it is. But all those people talk, and if you do something

1 wrong, they definitely know it.

2 So I would like to do any -- what we're
3 recommending is just sending in the new games, getting
4 families approved, and then new faces and so forth would
5 just change to make things a lot easier on Revenue.

6 The other issue we would like to discuss is the
7 tavern gaming provisions. I'm sure this is no surprise to
8 anyone sitting here that it's not exactly what the law
9 initially intended. It's highly restrictive. It's over-
10 penal, and with only 51 or so licenses issued to date,
11 you're going to be hard-pressed to find any of my games in
12 any taverns across Pennsylvania. It's just not very
13 attractive at all.

14 We've drafted some suggestions as to how to
15 change the law, a reduction in the licensing and renewal
16 fees, fairer split in the net proceeds much like Mike was
17 talking about for the clubs, the reduction in the tavern
18 game tax, the monetary penalties, the elimination of
19 criminal penalties, all the way down through. We can't
20 have some of these gaming violations negatively impact
21 one's liquor license. The two of them just don't seem to
22 go together.

23 We have had discussion with our friends at the
24 Tavern Association, and we are in line with their vision of
25 the law. We're aware that the Committee has reviewed the

1 legislative draft of Representative Kurt Masser I believe.
2 I don't wish to have anybody's name wrong. And he has
3 taken aim at improving the tavern section of the law as
4 well. We're willing to work with the taverns in support of
5 that bill and Representative Masser as well.

6 Ultimately, it's our goal to be a part of the
7 advocacy process that eventually leads to the creation of a
8 tavern law that's a little bit more attractive to the
9 businesses in Pennsylvania. With certain changes, the
10 tavern gaming can become a better source of entertainment
11 and revenue and remain some sort of source of revenue for
12 the Commonwealth in and of itself.

13 That concludes my testimony, Mr. Chairman. Thank
14 you.

15 MAJORITY CHAIRMAN PAYNE: Thank you. Questions?
16 Representative Masser?

17 REPRESENTATIVE MASSER: On the family of games
18 that you said, is there any draft language out there that
19 you would have for the Committee?

20 MR. DEVITZ: Yes, I can try and find that for
21 you.

22 MR. ARCHIBALD: Yes, Representative Masser, we do
23 have a draft to clean up that section of the law. Again,
24 that's regulatory language right now --

25 REPRESENTATIVE MASSER: Right.

1 MR. ARCHIBALD: -- and I've shared that with the
2 Chairman's office, and we can certainly share it with you.

3 REPRESENTATIVE MASSER: Just thinking about how
4 do you -- I certainly wouldn't be able to draft that
5 language that would be all-encompassing to make sure that
6 they --

7 MR. ARCHIBALD: Right. And just to clarify our
8 intent to clarify on Tony's remarks, what we're looking at
9 is a suggestion that for games that go about having nothing
10 more than a facelift done to them, the concept of the game
11 remains the same, the prizes remain the same, it's
12 redundant for the Department to have to approve those over
13 and over again. There are then truly new games that come
14 into the State with new concepts, and our feeling as an
15 association is those should be approved by the Department
16 for an initial play.

17 REPRESENTATIVE MASSER: Absolutely. Thank you.

18 REPRESENTATIVE NELSON: A question for you.
19 Does --

20 MAJORITY CHAIRMAN PAYNE: Hold on. Hold on.

21 REPRESENTATIVE NELSON: Oh, okay.

22 MAJORITY CHAIRMAN PAYNE: Representative Kortz.

23 REPRESENTATIVE KORTZ: Thank you, Mr. Chairman.

24 Mr. Devitz, you mentioned the elimination of
25 criminal penalties, and on page 4 you have that written

1 down at the top. Would you like to expand on that a little
2 bit?

3 MR. DEVITZ: I don't know that I --

4 MR. ARCHIBALD: Mr. Chairman, I can answer that
5 question. The small games was initially drafted and still
6 exists today with significant monetary penalties and
7 potential criminal prosecution for violation of that act.
8 The Tavern Association and the Pennsylvania Gaming Alliance
9 have talked. They support a lowering of those monetary
10 penalties and elimination of the criminal provisions, and
11 we support them in their quest to get that removed.

12 REPRESENTATIVE KORTZ: Okay. But if you have
13 somebody running numbers in that tavern besides these other
14 games, are you saying we should let them go?

15 MR. ARCHIBALD: Well, that would be a violation
16 of Title 18 gambling, not a violation of the Small Games
17 Act, so that would not come under the small games
18 penalties.

19 REPRESENTATIVE KORTZ: Okay. But you're saying
20 total elimination of criminal penalties?

21 MR. ARCHIBALD: In the Small Games Act, not in
22 Title 18.

23 REPRESENTATIVE KORTZ: Okay. And how is this
24 hindering you now? What's it doing to people now?

25 MR. ARCHIBALD: Well, we looked at the law, and

1 in talking with our friends at the Tavern Association,
2 obviously with 51 licenses issued over the last year or two
3 years that the law's been in existence, it's not a very
4 attractive business option for the taverns. So we looked
5 at ways that we could suggest to the Committee that may
6 make it more attractive to them.

7 MAJORITY CHAIRMAN PAYNE: Let the Chair hop in
8 here real quick and just tell you that in the current draft
9 of the legislation the penalties are not eliminated. They
10 are lowered and they match the clubs' penalties. So
11 they're all equal and the same --

12 REPRESENTATIVE KORTZ: Okay. Thank you,
13 Mr. Chairman.

14 MAJORITY CHAIRMAN PAYNE: -- in the current
15 draft.

16 Representative Nelson?

17 REPRESENTATIVE NELSON: Yes, my question was in
18 regards to the family revision. Do you have some numbers
19 or some efficiency improvement numbers that if we were able
20 to implement the language to allow family approval how much
21 that would streamline and reduce from the several thousand?
22 It would be helpful, I think, you know, from a caucus
23 perspective to see how --

24 MR. DEVITZ: I can --

25 REPRESENTATIVE NELSON: -- we could improve that.

1 MR. DEVITZ: I can give you the numbers based on
2 Paramount. I can certainly get that for you. And
3 sometimes it'll take two days, sometimes it'll take 30 days
4 to get a packet. And sometimes it'll be 50 and sometimes
5 it'll be 150. But I can certainly get those numbers for
6 you.

7 MR. SMITH: And it's quite subjective. I can
8 look at two games, one will be declined, one will be
9 approved. Fifteen years ago, games weren't required to be
10 submitted. We had some new people hired in the Department
11 of Revenue, and one day we all got a letter saying you have
12 to submit your games for approval.

13 MAJORITY CHAIRMAN PAYNE: It sounds like the
14 letter that the casinos just got increasing their fees
15 without anybody's knowledge so --

16 MR. PHILBIN: One of the things when we met with
17 Department of Revenue last year, they told us that they
18 read in the law that it says that they have to approve the
19 manufacturers, which is fine, but then they took it one
20 step further, well, if I have to approve the manufacturers,
21 I have to approve what the manufacturers do. And that's
22 how they got to where we're at today.

23 MAJORITY CHAIRMAN PAYNE: See if you can't get
24 the information again to Josiah. We'll scan it, send it
25 out to all the Committee Members. I think you hear the

1 consensus so far is, you know, whether it's Kurt's comments
2 about, you know, as long it's a family and the same thing,
3 Representative Nelson is the same way, it's like I'm all
4 for streamlining and supporting business. I'm also trying
5 to make sure that the government agency is doing what's
6 important, not just busywork or empire building, that this
7 is why we need the employees. So --

8 MR. DEVITZ: I was recently at Revenue for a
9 completely different reason, and I was speaking to the two
10 young ladies who look over the games, and they said, well,
11 so how do these work? And I said, well, seriously? She
12 goes, oh, yes, yes, we really don't have any idea how you
13 do these. So I had to explain our games. And these are
14 the people who are telling me whether or not the way I'm
15 doing it is correct. And obviously we don't want to pooh-
16 pooh anyone, but I mean that's a little difficult to
17 swallow.

18 MAJORITY CHAIRMAN PAYNE: Finished?

19 MR. DEVITZ: Yes. Thank you.

20 MAJORITY CHAIRMAN PAYNE: Okay. We're up to
21 John.

22 MR. SMITH: Good morning, Mr. Chairman, Committee
23 Members. I'm last so I'm supposed to go fast, correct?

24 MAJORITY CHAIRMAN PAYNE: You've noticed behind
25 me there's fewer and fewer.

1 MR. SMITH: Yes. My name is John Smith. I
2 promise, it really is. And I'm the President and Chief
3 Executive Officer of Lancaster Bingo. And we're based in
4 Lancaster, Ohio, but we do have facilities in Harrisburg,
5 Pennsylvania, and Monroeville right outside Pittsburgh.

6 Lancaster Bingo was founded in 1983, and we
7 specialize in the distribution of bingo supplies, pull
8 tabs, jar tickets, the game boards, and gaming equipment.
9 In 33 years of operation, we've greatly expanded both our
10 business model and our distribution area.

11 In addition to Pennsylvania and Ohio, we also
12 provide services in Virginia, West Virginia, Maryland,
13 Kentucky, Indiana, and Illinois. Our customer base is made
14 up primarily of charitable organizations, clubs, fire
15 departments, churches, nonprofits, taverns, and bars. We
16 do have a successful bar business in the State of Ohio and
17 Indiana. I'm proud to tell you Lancaster Bingo has become
18 one of the largest distributors in the Nation.

19 Personally, I've been with the company 19 years.
20 I'm one of the owners; I'm President and CEO. Prior to my
21 time at Lancaster Bingo I was Senior Vice President of a
22 small community bank. I was twice elected to our city
23 council at large in Lancaster. I worked four years for a
24 United States Congressman both in Washington and in his
25 district office. I have a great deal of respect for

1 elected officials, and I know you all do it just for the
2 money.

3 In addition to advocacy, on behalf of the
4 membership, one of the missions and goals of the
5 Pennsylvania Gaming Alliance is to be an informational
6 source for you in regard to the gaming climates in other
7 States we do business. We've handed out some fliers or
8 folders. In those folders, this is a spreadsheet. These
9 are the States that we do business in. It gives you a
10 snapshot of how Pennsylvania stacks up against neighboring
11 States, what's allowed, what's not, fees, and things of
12 that sort.

13 Also in the file there's a report from NAFTAMA,
14 which is the North American Fundraising Ticket
15 Manufacturers Association. They put an annual report
16 together. It usually lags a year or two. It has
17 information, as reported at least, of what type of
18 charitable gaming is allowed -- well, what type of gaming
19 is allowed across the United States and Canada. It
20 includes fees, taxes, licensing. So it's a pretty good
21 source of information. Their website is on there. It
22 would be something that we could certainly let
23 Mr. Archibald know when the next report comes out because
24 it is some good, helpful information.

25 With eight States in Lancaster Bingo's footprint,

1 we have a significant amount of experience with bingo,
2 games of chance in different jurisdictions. We've provided
3 testimony and served on State-sponsored gaming commissions
4 in several States. We feel it's our responsibility to work
5 with our regulators and legislators to create a level
6 playing field for the organizations who rely on bingo and
7 small games of chance for their much-needed funding.

8 So the goal of my testimony today is to highlight
9 for you some of the major difference in the games-of-chance
10 law in Pennsylvania compared to the other States we serve.
11 I've provided the Committee with the Excel spreadsheet I
12 mentioned. I'm hopeful that you will find this information
13 helpful in understanding the diverse climates of gaming.

14 I also hope we can offer some ideas that could be
15 implemented in Pennsylvania to improve the Small Games Act
16 and bolster the entertainment value, fundraising potential
17 for the organizations and businesses that rely on these
18 games.

19 Specifically, I feel the legislature should
20 eliminate the \$35,000 weekly aggregate in prizes. That's
21 what Mike mentioned originally. No other State except for
22 Illinois has this type of restrictive language.

23 I also feel the 4,000 ticket limit should be
24 eliminated. It really serves no purpose. Whether it's got
25 40 tickets, 4,000 or 40,000 tickets, there's a defined

1 profit and payout in each and every deal, and as long as it
2 meets the 65/35 payout in Pennsylvania, it shouldn't matter
3 how many tickets are sold.

4 The laws are clear on what type of games can and
5 should be sold in Pennsylvania. It should be the
6 responsibility of the licensed distributors and
7 manufacturers to only sell games that conform. That is how
8 every other State we do business in regulates games, and
9 none of them require games to be submitted and approved.
10 The rules are the rules, and it is the responsibility of
11 the licensee to comply. If we are found not to be in
12 compliance, we risk fines, disciplinary actions up to and
13 including revocation. It's a pretty strong deterrent
14 selling games that aren't legal. Submission and approval
15 of games is just unnecessary and a subjective step that
16 should be eliminated.

17 Also, other States that surround Pennsylvania
18 allow small games of chance pull tabs with progressive
19 jackpots, as Mike mentioned. This feature allows
20 nonprofits organizations to build jackpots and compete with
21 the giants from the for-profit gambling.

22 Okay. Off subject a second. Anybody ever see
23 Vegas Vacation. All right. So Rusty Griswold wins four
24 cars on four spins, progressive jackpots. We're not giving
25 away cars, but we'd like to give away a little cash.

1 I'd like to add that since 1988 when the Small
2 Games of Chance bill was enacted, Pennsylvania has
3 experienced explosive growth in gambling. Horse tracks
4 with electronic gaming devices, there are land-based
5 casinos throughout the Commonwealth and who knows how many
6 grey machines out there. It's time for the Small Games of
7 Chance Act to be amended and allow for the licensed
8 organizations the opportunity to compete. The nonprofits
9 are doing great things in your communities, and they need
10 your support.

11 In closing, on behalf of the Pennsylvania Gaming
12 Alliance, I want to thank the Committee for the chance to
13 spend some time with you today and share our experiences
14 and suggestions. We hope that you have found the
15 information we've provided interesting and helpful. We
16 stand ready to be of assistance to the Committee as an
17 informational resource any time we can. We look forward to
18 working with you to improve PA Small Games of Chance.

19 It's part of our business to represent the
20 industry. The charities can't pull together to do this
21 themselves for whatever reason, so we're the for-profit
22 side of the nonprofit business, and we'd like to offer our
23 assistance any way we can. Thank you.

24 MAJORITY CHAIRMAN PAYNE: Thank you, John.

25 Representative Masser?

1 REPRESENTATIVE MASSER: A couple questions. When
2 you go into a club and they have the ticket machines there,
3 is that supplied by the distributor or is that bought by
4 the club itself? Or how does that work?

5 MR. SMITH: That's an excellent question. And
6 nine times out of ten, the club is buying that machine.
7 There is some financing oftentimes available to them, but
8 that's another one of those purchases we'd like to be able
9 to have on the top line.

10 I'll speak to Ohio. Ohio looks at ticket vending
11 machines and ticket-tracking software as a perfect way to
12 keep track of cash. And these tickets are cash. You know,
13 that's just what they are. They allow that expense to be
14 taken off before the charitable split. But it has to be
15 documented.

16 REPRESENTATIVE MASSER: It just makes sense
17 because in the long run, it's just more money for the
18 charities and less money walking away from the --

19 MR. PHILBIN: And you're talking between \$4,000
20 and \$8,000 for a ticket machine, so we can't go into -- you
21 know, all of us have a thousand charities. We can't go
22 into each one and give them a ticket machine. It's just
23 not financially possible on our end.

24 REPRESENTATIVE MASSER: Sure.

25 MR. SMITH: And it's also one less person

1 handling cash --

2 REPRESENTATIVE MASSER: Sure. Absolutely.

3 MR. SMITH: -- which is helpful.

4 REPRESENTATIVE MASSER: What is this seal card
5 game?

6 MR. SMITH: The seal card game, there's games
7 that come in, you know, we call it box of tickets, a deal
8 of tickets. Some of them have instant winners, so you open
9 the ticket and you realize whether you won instantly or
10 not. And then there's games that have what we call
11 holders, whether they're the jar tickets that Tony's group
12 manufactures or a game like this. This is an actual seal
13 card.

14 So what a seal card does is it makes sure that
15 the charity gets their money out of the game because the
16 big money is given away at the end. So all the tickets are
17 sold. There might be some big-dollar tickets -- you know,
18 there might be a \$500 instant winner in a seal card game,
19 but usually the \$500 winner is going to be reserved until
20 the end. So all the tickets are sold, they pop the seal,
21 and then that cash is given away.

22 And it keeps the people at the club or at the
23 fire department or wherever from saying, oh, hey, don't buy
24 out of that thing because the big money is gone. The big
25 money goes when it's over.

1 REPRESENTATIVE MASSER: Because there's still an
2 opportunity.

3 MR. SMITH: Yes, sir.

4 MR. DEVITZ: There's obviously still instant
5 winners throughout the game, but you're still holding for
6 the ultimate money at the end.

7 REPRESENTATIVE MASSER: All right. One last
8 question if I may, Mr. Chairman.

9 MAJORITY CHAIRMAN PAYNE: Sure.

10 REPRESENTATIVE MASSER: The number of charitable
11 licenses is amazing to me when you look at this chart,
12 Pennsylvania as compared to the rest of the States. We're
13 at 6,265. The next-largest one is Indiana with 3,000, I
14 mean, less than half. Is it because other States don't
15 necessarily make them have licenses or why is that? I
16 mean, the numbers are really different.

17 MR. SMITH: I was kind of surprised by that as
18 well, but it's a number that the Department of Revenue
19 reported. So it could be that they look at the number of
20 charities that could apply or could qualify for a license
21 under the act versus the number that are actually licensed
22 under the act. I can't really speak to that.

23 REPRESENTATIVE MASSER: Okay. Thank you.

24 MR. SMITH: I was surprised by that number,
25 though, too.

1 REPRESENTATIVE MASSER: Yes. Thank you.

2 MR. DEVITZ: They may even take one-day-event
3 license-holders into that number as well --

4 REPRESENTATIVE MASSER: Oh, okay.

5 MR. DEVITZ: -- for Pennsylvania, but
6 Pennsylvania is one of the largest --

7 REPRESENTATIVE MASSER: Right.

8 MR. DEVITZ: You also have to recognize the fact
9 that there are more VFWs -- it's Ohio, Pennsylvania, and
10 Germany are the three top VFW post-holders in the country
11 -- in the world actually obviously bringing Germany in.

12 MR. SMITH: And Pennsylvania also has the
13 volunteer fire departments, which more prevalent here than
14 in other jurisdictions.

15 MR. DEVITZ: We also have the Sons of Italy, the
16 this, the that, so there's a lot more here in Pennsylvania
17 than there is -- there's more organizations overall,
18 federated clubs, that kind of thing, than there is in the
19 other States.

20 REPRESENTATIVE MASSER: Great. Thank you.

21 MAJORITY CHAIRMAN PAYNE: Thank you.

22 Representative Klunk.

23 REPRESENTATIVE KLUNK: Thank you, Mr. Chairman.

24 And thank you, gentlemen, for joining us today.

25 I'm not sure who would be the best person to

1 answer this question, but as a payback on Representative
2 Masser's question about the point-of-sale machines. How
3 many clubs out there that you guys service, and
4 organizations, actually use these? And what are you
5 hearing as the benefits of those? Are more clubs and
6 organizations switching to them?

7 And in other States, you spoke a little bit about
8 Ohio, Mr. Smith, can you talk about what other States are
9 doing in relation to the regulatory requirement or at least
10 different LCB agents coming in and saying, no, you can't
11 use that charitable money for the purchase of that machine?
12 Where are other States in relation to that?

13 MR. SMITH: Sure. I'll touch on it, but then I'm
14 going to ask Mike to follow up.

15 REPRESENTATIVE KLUNK: Okay.

16 MR. SMITH: So Ohio, we're regulated by the
17 Attorney General's Office, so what Ohio will do is they'll
18 go visit a club and their work won't be in order. So
19 they'll say, hey, we're going to fine you \$10,000 or you
20 buy a ticket-tracking software. So they give them a choice
21 on the settlement.

22 You know, what we find is more and more of these
23 organizations realize that, you know, it's a privilege to
24 game, one. Two, they count on that money. They don't want
25 violations because it could affect their liquor license at

1 some point. So we've got more and more organizations
2 wanting ticket-tracking software. Plus, with the
3 electronic reporting now required in Pennsylvania, it
4 really does it for them. I mean, it manages your inventory,
5 it manages your cash, it can manage your food and beverage
6 if you want them to. I mean, as you would imagine, with
7 technology it keeps evolving and becoming a greater and
8 greater tool for these organizations.

9 I think Pennsylvania is the only State we do
10 business in that doesn't allow it as a before-the-split
11 purchase.

12 REPRESENTATIVE KLUNK: Okay. And, Mr. Chairman,
13 if I may, a quick follow-up.

14 So to that, the clubs and organizations that are
15 using these point-of-sale machines and tracking software,
16 have they seen, you know, decrease in fraud, increase in
17 profits, increase in potential sales tracking? And is it
18 making it easier in that relationship with you when it
19 comes to ordering to know what games are actually, you
20 know, moving off the shelves?

21 MR. SMITH: Yes, yes, and yes. To be frank with
22 you, it's like any other computer, you know. It's as good
23 as the data that you're putting into it. But if you've got
24 a group that is committed to that process, you know, it
25 gives different levels of approval, you know, so whoever's

1 the gaming chairman can look at everything. It knows if a
2 bartender is short on tickets. It knows that reports are
3 there. So it's a great management tool.

4 Mike's got a very successful system that he puts
5 out, and again, if it's okay with the Chairman, I'll let
6 him chime in. But everything improves in that
7 organization. They have money they never knew they had,
8 you know, the bad apples leave because they don't want to
9 work in a regulated environment, and it pays for itself
10 pretty quickly.

11 MR. PHILBIN: We right now probably have about, I
12 don't know, 3, 400 systems out in Pennsylvania. And most
13 of the time we get a phone call after they just got rid of
14 the manager because the manager just stole, okay? So they
15 put these out and, you know, a game that has 4,000 tickets,
16 they ring every tickets. Somebody wants 20 tickets, they
17 ring them in. At the end of the game it's saying that
18 you're short 200 tickets, okay? So people make mistakes,
19 but at least it's going to give you a pattern, okay?

20 And I'm going to tell you that we've had clubs
21 anywhere from eight to one club that told us they were over
22 50 percent more profit to the club because they were able
23 to track it. And sometimes we lose bartenders because they
24 don't like the system, but I think it's more that their
25 income goes down because now we're paying attention.

1 And even a lot of times the people that are
2 running the clubs don't have some business knowledge, so
3 this really helps them by just knowing what reports to look
4 at to give them business knowledge and to at least pay
5 attention to what's going on a little bit because doing it
6 by hand, they have no clue.

7 REPRESENTATIVE KLUNK: Thank you, Mr. Chairman.
8 Thank you.

9 MAJORITY CHAIRMAN PAYNE: Thank you.

10 Representative Kortz.

11 REPRESENTATIVE KORTZ: Thank you, Mr. Chairman.
12 Thank you, Mr. Smith, for your testimony, and gentleman,
13 the panel.

14 I'm referring to this chart that's put out here
15 and the follow-up to Representative Masser, 6,200 licenses
16 in Pennsylvania generates in 2014 tax dollars \$268,000.
17 Compare that to Ohio with 1,700 licenses, one-third less,
18 and you get 10 times more in taxes. And drop down to
19 Indiana where you have 3,000 licenses, they bring in about
20 3.7 million in taxes. Can I assume that if we would do
21 what you have said there and remove the restrictive
22 language that we could possibly generate \$6 million in
23 taxes for the State of Pennsylvania or is that a false
24 assumption?

25 MR. SMITH: Well, it's not necessarily a false

1 assumption. There are taxes -- well, you can see the taxes
2 and fees as part of this. Also, I would look at that
3 NAFTA report, and it clearly spells it out.

4 The \$35,000 weekly aggregate, that's a big
5 impediment to allowing -- like Mike says, you know, if a
6 club opens on -- if their week is Monday through Saturday
7 or Sunday, if they're at their \$35,000 limit by Thursday
8 and they're abiding by the law, you know, their three
9 busiest days they're not selling any product.

10 REPRESENTATIVE KORTZ: Right. So again, if we
11 remove this restrictive language, can we anticipate
12 additional taxes to the tune of possibly \$6 million?
13 Anybody on the panel? I mean, I'm looking at your chart.

14 MAJORITY CHAIRMAN PAYNE: The answer is we'll
15 definitely anticipate additional revenue. The clubs will,
16 the taverns will, and, you know, we will. And that's one
17 of the reasons why we have legislation to remove that
18 restriction. Look, in all the time that I've been here,
19 I've never been more amazed to find us put restrictions in
20 that restrict people to give money to charities and for the
21 State to make more money while at the same time really not
22 safeguarding or regulating, you know, underage gaming or
23 any other issue. I'm sure there was some rationale on why
24 they picked that number. Then again, I'm sure there wasn't
25 having been here for 14 years.

1 But it's time to remove that restriction. It's
2 time to change the Small Games Act that was passed with all
3 these handicaps and challenges and penalizing a tavern
4 owner on their liquor license instead of on their gaming
5 license. I mean, it just doesn't make sense. If you have
6 a violation on the gaming side, then let's make the
7 penalties on the gaming side, and after three strikes, five
8 strikes, whatever it is, you lose your license to game for,
9 you know, six months or a year, so be it. But the liquor
10 is not involved. The liquor penalties are liquor
11 penalties, and gaming penalties are gaming penalties.

12 Clearly, we want to remove that restriction. We
13 want every organization, taverns, restaurants, clubs,
14 whoever to be able to make the money they need to make and
15 for the Commonwealth to make that extra revenue. So that
16 was the intent of the original small games, changes that
17 we're looking at doing, and to give every organization an
18 equal playing field with more games and more prize limits.
19 And guess what, we're no different at the end. The State
20 makes more, too. I'm yet trying to figure out how that's a
21 bad idea that the individual business makes more money and
22 the State makes more money, and yet somehow there's a
23 problem with that.

24 MR. SMITH: And it's better regulated.

25 MAJORITY CHAIRMAN PAYNE: Yes, well, we over-

1 regulate and over-regulate, and then the other problem is
2 we never go back and look at the things. I mean, we talk
3 to 81 on bingo, 89 on the other, you know, I get it you
4 don't want to look at it every year, but, you know, on a 5-
5 or 10- or 20-year cycle, is that not a good idea to go look
6 and make sure we're staying competitive with the
7 surrounding States, make sure that our tavern people have
8 the tools they need to do their job? And it benefits the
9 charities on a lot of these cases.

10 Representative Nelson.

11 REPRESENTATIVE NELSON: Yes, thank you,
12 Mr. Chairman.

13 As I look at this chart, which is very helpful
14 for me, I just wanted to gain your perspective. And I know
15 a lot of people have meetings for 10 o'clock, but it seemed
16 to me a greater correlation in the limiting or the
17 restriction of the fees paid is that the State of
18 Pennsylvania has a \$125 set fee where a lot of these other
19 States that are having higher revenue are sharing in a
20 percentage of sales or net sales, be it a percentage of
21 income for sales or a percentage of sales price.

22 And not only as part of the \$35,000 payout, but I
23 wanted to get your perspective of we seem to be the only
24 one with a set \$125 cap, and we're not necessarily sharing
25 in the prosperity or creating an opportunity for those

1 organizations to raise more money as part of that process.
2 I just wanted to get the perspective of the panel.

3 MR. SMITH: My only caution to you is it's easier
4 to -- if you want to look for additional licensing revenue,
5 I would look at the for-profit side before the nonprofit
6 side of it. And with that being said, if you were to scale
7 it, make sure you cap it because I know of charities in
8 Ohio, for instance, that are paying \$35,000 a year in
9 licensing fees, and it doesn't take the Attorney General's
10 Office any more time to audit that organization than it
11 does to audit the one that's paying \$500 a year for that
12 license because of the electronic reporting and things that
13 are available.

14 REPRESENTATIVE NELSON: You see that as a
15 significant factor in the difference in revenue streams
16 between some of these other States where Pennsylvania is at
17 \$268,000 and Ohio's at, you know, \$2.6 million.

18 MR. SMITH: The reason I'm struggling to answer
19 that is because I don't know what that 62/65 number that
20 they report as licensees is made up of, and I don't know
21 what the handle is, the gross revenue. But, yes, the fee
22 to the charity is --

23 REPRESENTATIVE NELSON: That's fine. That's
24 fine.

25 MR. SMITH: You know, when people want to raise

1 licensing fees to the organizations, we always recommend
2 they raise the licensing fees to the for-profits instead.

3 MAJORITY CHAIRMAN PAYNE: Okay. Representative
4 Nelson, all right?

5 REPRESENTATIVE NELSON: Yes, thank you.

6 MAJORITY CHAIRMAN PAYNE: Representative Masser.

7 And I want to add that Representative Mackenzie
8 has joined the hearing.

9 REPRESENTATIVE MASSER: I don't even know if
10 you'll have an answer to this, but when you sell the point-
11 of-sale systems, you say you sell the systems. Like many
12 of the taverns especially or restaurants that could get
13 into the tavern gaming already have existing point-of-sale
14 systems. Are there point-of-sale systems that are better
15 suited for -- do they have modules that they put on? I'm
16 using like an Aloha software or Digital Dining or existing
17 point-of-sale systems that are out there in the market now?

18 MR. PHILBIN: Aloha has an add-on, okay? Our
19 programmers actually designed ours for the industry. In
20 other words, it'll sell beers, it'll sell food, it sends
21 stuff to the kitchen just like a normal one, but it tracks
22 every serial number. John has a system that does the same
23 thing. Aloha doesn't do it the greatest, but they did it
24 as a module.

25 But yes, there are standalone systems, not

1 necessarily one that would be built into some of the ones
2 that the taverns have, but there are smaller standalone
3 systems that can be sued.

4 REPRESENTATIVE MASSER: Okay. Thank you.

5 MR. SMITH: And speaking to the taverns if I
6 could, Mr. Chairman, you know, we do sell to taverns and
7 bars in Indiana. We've got several hundred customers
8 there. And the biggest difference is the tax, the way it
9 was set up here in Pennsylvania with the tax. In Indiana
10 they pay 10 percent for the privilege to do it versus 72
11 here by the time you get the 65 and the 7 percent sales tax
12 and everything else. And it's pretty big business in
13 Indiana.

14 REPRESENTATIVE MASSER: Thank you.

15 MAJORITY CHAIRMAN PAYNE: Sure. We are fortunate
16 Representative Masser has been on both sides of that
17 counter in the tavern/restaurant business. And I have to
18 tell you, he and I agree 99 out of 100 percent on these
19 issues, and I'm very proud of that. And we're committing
20 to trying to fix this, although in 14 years I think this is
21 the fourth or fifth fix, and that's frustrating. It's also
22 frustrating for some of the leaders that say you want to
23 move another bill that, you know, we've tried to fix, tried
24 to fix.

25 But I'd point out that all the changes that left

1 the House were good changes. The last round of small games
2 were not changed in the House. The fee, tying it to the
3 liquor license, all that stuff was done in the other
4 chamber. So hopefully, this time we can put together a
5 very good small games bill that includes a variety of
6 things and helps the taverns and the clubs and all the
7 other facilities, and at the end of the day benefits the
8 business, the nonprofits, and the State.

9 Any other questions before we adjourn?

10 If not, this hearing is adjourned. Thank you,
11 gentlemen.

12 MR. PHILBIN: Thank you.

13 MR. SMITH: Thank you.

14
15 (The hearing concluded at 10:06 a.m.)

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2 are a true and accurate transcription produced from audio
3 on the said proceedings and that this is a correct
4 transcript of the same.

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