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# LIVEWIRE Express Vending

318 Pittsburgh St, Scottdale, PA 15683 Phone: 724-987-5100 Fax: 724-987-7741 Email: LivewireVending@gmail.com

**NEW RELEASE OCT 1, 2015**

## **Public Hearing Meeting on illegal gambling Devices for Gambling, Bars, Taverns.**

### **Top Attending Members**

 **DIRECTOR, Bureau of Liquor Control Enforcement**

 **Legislative Affairs Office, State Police**

 **Local County Members:**

Dauphin county,(3) Allegheny County, Lebanon County, Westmoreland County, Northampton county, Luzerne County, Mercer County, Franklin County,(2) Monroe County, Lehigh County, Philadelphia County, Lackawanna County, Schuylkill County, Lancaster County, Fayette County.

This packet is the testimony for the Public hearing held on September 29, 2015 to address growing concerns about illegal “game of chance” devices and legal “game of skill” devices and the BLCB position regarding recent concern in the state of Pennsylvania.

***Related information for, “game of skill” TESTIMONY highlighted***

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# House Gaming Oversight

## House Gaming Oversight Committee

9/29/15, 9:00 a.m., Room G-50, Irvis Office Building By Mike Howells

### Committee(s):

House Gaming Oversight Committee

### Meeting type:

Public Hearing

### Subject:

Illegal Gambling Devices

### Bills discussed:

(N/A)

### Keyword(s):

gambling, bars, taverns

### Testimony:

Maj. Thomas Butler, Director, Bureau of Liquor Control Enforcement, Pennsylvania State Police  
Maj. Marshall Martin, Legislative Affairs Office, Pennsylvania State Police

### Members Present:

Chairman John Payne (R-Dauphin), Minority Chairman Nick Kotik (D-Allegheny), and Representatives Russ Diamond (R-Lebanon), George Dunbar (R-Westmoreland), Marcia Hahn (R-Northampton), Aaron Kaufer (R-Luzerne), Tedd Nesbit (R-Mercer), Paul Schemel (R-Franklin), Dom Costa (D-Allegheny), Bill Kortz (D-Allegheny), David Parker (R-Monroe), Ryan Mackenzie (R-Lehigh), Ed Neilson (D-Philadelphia), Sid Kavulich (D-Lackawanna), Rosemary Brown (R-Monroe), Jerry Knowles (R-Schuylkill), Steven Mentzer (R-Lancaster), and Ryan Warner (R-Fayette).

The committee held a public hearing on the seizure of illegal gambling devices.

Chairman John Payne (R-Dauphin) advised that gaming as an issue in Pennsylvania is "alive and well," with an aggressive agenda for committee hearings in the autumn. He said there will be follow-up hearings on issues tackled in the spring, followed by looks at other new issues afterward. He noted fantasy sports will be a particular area of scrutiny.

Maj. Thomas Butler, director of the Bureau of Liquor Control Enforcement (BLCE) for the Pennsylvania State Police (PSP), along with Maj. Marshall Martin, director of the PSP's Legislative Affairs Office, offered an overview of the state of illegal gambling machines in the commonwealth. Butler said PSP estimates there are at least 15,000 illegal video gambling machines currently operating in the state, generally consisting of two kinds: video poker or video slots. He reported their prevalence is regional, with most being found in the southwest, southeast and northeast, inside liquor license establishments. Butler told members most of the illegal machines are owned by vending machine companies. He said PSP estimates each machine generates \$500 a week, and thus a bar with multiple machines can make thousands of dollars a week in untaxed revenue.

Discussing the investigation process of illegal gambling machines, Butler said they are often initiated through a gambling complaint to a local BLCE office, though it is not uncommon for a machine to be discovered during the course of an unrelated investigation. He reported that in 2014, BLCE initiated 26 criminal prosecutions, issued 270 administrative citations and seized 694 illegal machines. He said BLCE is currently in possession of 1,815 machines either being stored as evidence or awaiting destruction.

Citing two recent forfeiture cases, which concluded both machines in question "were designed in a manner that the skill of the player was the predominant factor in determining the outcome of the game" and thus were legal, Butler told members that BLCE is now seeing an expansion of devices in licensed establishments designed to mirror the two designs deemed legal. "This is more complicated for the BLCE from the perspective that each new device we encounter during an investigation now requires a more careful evaluation of the device's specific characteristics as well as discussion with our experts and attorneys before a seizure or charges can be initiated," he said.

Rep. Russ Diamond (R-Lebanon) asked about the court cases referenced in Butler's testimony and whether new legislation is needed regarding games of skill versus games of chance. Butler said the court decided the machines in question were predominantly games of skill, and as such BLCE will not bring actions against them. To do so, he said, would require a change in law.

Important Information

Rep. Kill Kortz (D-Allegheny) noted six years ago the PSP commissioner testified there were 40-60,000 machines whereas Butler estimated the number at 15,000. Butler could not speak to the previous number, but acknowledged it was "very difficult" to come up with the 15,000 estimate and remarked "it certainly could be more," but not less. He explained to the committee his methodology in arriving at the estimated number, and said the concentration of machines is highly regionalized. Asked whether there are enough troopers assigned to the work, Butler said BLCE does "a very good job" of balancing enforcement of illegal gambling machines with their other responsibilities.

Rep Kortz asked if there is a looming "mass exodus" of retirees. Butler said BLCE officers are not enlisted and so the issue is not the same as with the larger PSP complement.

Rep. Marcia Hahn (R-Northampton) said she has already seen amusement-only machines in non-licensed establishments and asked if PSP monitors those. Butler said that falls to local police and the relevant district attorney, or local State Police in areas where there are no local police. He indicated there is little enforcement going on beyond that done by BLCE.

Rep. Sid Kavulich (D-Lackawanna) asked if legalized machines create a bigger burden on BLCE. Marshall said it would reduce the burden if the machines are legal.

Rep. Dom Costa (D-Allegheny) said a lot of machines he saw as a police officer in Pittsburgh were in pizza shops and similar venues. He opined that the state should look at such places meeting the same standards as casinos. Butler clarified the court has ruled a very narrow band of machines have been are legal, and BLCE goes after those that remain illegal.

Chairman Payne said the committee will be looking at legislation distinguishing between skill and chance. He emphasized the need for enforcement of any new machines that are legalized. He asked out of the 694 confiscated in 2014, how many establishments they came from. Butler said he would return that information to the committee. Chairman Payne questioned what amount of money the state is not collecting as a result of the problem. Butler could not say but remarked the latest cash seizure from a vendor was significant.

Chairman Payne asked about pay discrepancy between BLCE officers and PSP at large. Butler said the group's enabling legislation calls for officers to be civilian employees. He noted they carry a gun and go through academy training of six weeks, but have more limited enforcement powers than a typical trooper. Chairman Payne said that does not make sense to him and remarked he would want them to have the same legal powers as any other law enforcement officer.

Rep. George Dunbar (R-Westmoreland) said the 15,000 estimated machines and \$500 per machine per week figure implies a lot of revenue being missed out on by the state. Asking about raids, he questioned what the establishment is fined after they are raided. Butler said usually when a licensed establishment is prosecuted for illegal gambling, it goes through the administrative law judge, and a first offense can run from \$300 to \$500.

He noted the judges have the authority to suspend a license but acknowledged that is rare. Rep. Dunbar voiced his opinion that the penalties are not strict enough.

Expanding on the issue of skill versus luck games, Butler said the judge ruled that a player with good coordination could get visual cues from certain games to win more often than someone else. Another case involved a more traditional video slot machines and a game similar to tic tac toe that was also ruled a skill game.

Rep. Jerry Knowles (R-Schuylkill) asked whether the agencies that enforce liquor laws can enforce any Pennsylvania law. Butler clarified they can only enforce a specific band of laws, and could not pull someone over for a DUI for example. Rep. Knowles questioned whether illegal machines at non-liquor establishments can be enforced by liquor officers. Butler said there are a select group of troopers signed to liquor enforcement who can do so, but the BLCE in the normal course of duties does not investigate such places.

Chairman Payne expressed his preference to have BLCE officers with "total police powers."

Rep. Kaufer asked if BLCE partners with the Department of Health in the course of its reviews. Butler said they partner very well with the Department of Health with smoking enforcement and health permits, but said he is not sure what their personnel resources would be with respect to a capacity to work on gaming issues. He suggested local jurisdictions may be better situated to collaborate.

Acknowledging some municipalities or counties require a sticker for legal machines located in establishments, Butler pointed out it is entirely possible that they are being put on illegal machines.

Chairman Payne asked if the state has gone after any manufacturers of illegal machines. Butler said they have not. Chairman Payne said discussions around legalizing video gaming terminals will necessitate working towards greater scrutiny of illegal ones.

Rep. Hahn asked whether it is the machines that can be illegal, or the fact of their paying out. Butler identified the characteristics that make a machine illegal, whether it is being paid out on or not. Butler confirmed they do on occasion go after vendors but said they are very intense investigations compared to licensee enforcement activity.

Chairman Payne requested details on the BLCE's complement and examples of "commonsense things" that officers currently cannot enforce. Rep. Kortz also asked for numbers on the numbers of machines taken over the past five years and what happened to them, as well as cash.