

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

RECEIVED  
COMMONWEALTH COURT  
OF PENNSYLVANIA

2018 AUG 22 2 11:18 PM

571 MD 2018

GREENWOOD GAMING AND :  
ENTERTAINMENT, INC.; :  
MOUNTAINVIEW :  
THOROUGHBRED RACING :  
ASSOCIATION, LLC; CHESTER :  
DOWNS AND MARINA, LLC; :  
WASHINGTON TROTTING :  
ASSOCIATION, LLC; STADIUM :  
CASINO LLC; VALLEY FORGE :  
CONVENTION CENTER :  
PARTNERS, LP,, DOWNS :  
RACING, LP :

No:

Petitioners,

v.

COMMONWEALTH OF :  
PENNSYLVANIA, DEPARTMENT :  
OF REVENUE; C. DANIEL :  
HASSELL, SECRETARY OF THE :  
DEPARTMENT OF REVENUE, in :  
his official capacity, :

Respondents.

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You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

GREENWOOD GAMING AND ENTERTAINMENT, INC.; MOUNTAINVIEW THOROUGHBRED RACING ASSOCIATION, LLC; CHESTER DOWNS AND MARINA, LLC; WASHINGTON TROTTING ASSOCIATION, LLC; STADIUM CASINO LLC; VALLEY FORGE CONVENTION CENTER PARTNERS, LP, DOWNS RACING, LP

No: 571 MD 2018

Petitioners,

v.

COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF REVENUE; C. DANIEL HASSELL, SECRETARY OF THE DEPARTMENT OF REVENUE, in his official capacity,

Respondents.

2018 AUG 22 AM 11:18 RECEIVED COMMONWEALTH COURT OF PENNSYLVANIA

PETITION FOR REVIEW IN THE NATURE OF COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Petitioners, holders of slot machine licenses issued under the Pennsylvania Race Horse Development and Gaming Act, 4 Pa. C.S. § 1101 et seq., bring this action for declaratory and injunctive relief, seeking a declaration that, by promoting and offering casino-style games and games that simulate slot machines,

the Department of Revenue in is in violation of the State Lottery Law and Act 42 of 2017. In support of their claims, Petitioners state:

### **THE PARTIES**

1. Petitioner, Greenwood Gaming and Entertainment, Inc. (d/b/a Parx Casino), is a Delaware corporation that holds a Category 1 slot machine license in the Commonwealth of Pennsylvania, and has its principal place of business at 2999 Street Road, Bensalem, PA 19020.

2. Petitioner, Mountainview Thoroughbred Racing Association, LLC (d/b/a Hollywood Casino at Penn National Race Course), is a Pennsylvania limited liability company that holds a Category 1 slot machine license in the Commonwealth of Pennsylvania, and has its principal place of business at 777 Hollywood Blvd., Grantville, PA 17028.

3. Petitioner, Chester Downs and Marina, LLC (d/b/a Harrah's Philadelphia Casino & Racetrack), is a Pennsylvania limited liability company that holds a Category 1 slot machine license in the Commonwealth of Pennsylvania, and has its principal place of business at 777 Harrah's Blvd., Chester, PA 19013.

4. Petitioner, Washington Trotting Association, LLC (d/b/a The Meadows Casino, Racetrack, Hotel), is a Delaware limited liability company that holds a Category 1 slot machine license in the Commonwealth of Pennsylvania,

and has its principal place of business at 210 Racetrack Road, Washington, PA 15301.

5. Petitioner, Stadium Casino LLC, is a Delaware limited liability company that holds a Category 2 slot machine license in the Commonwealth of Pennsylvania, and has its principal place of business at 601 East Pratt Street, Baltimore, MD 21202.

6. Petitioner, Valley Forge Convention Center Partners, LP (d/b/a Valley Forge Casino Resort), is Pennsylvania limited partnership that holds a Category 3 slot machine license in the Commonwealth of Pennsylvania, and has its principal place of business at 1160 1<sup>st</sup> Avenue, King of Prussia, PA 19406.

7. Petitioner, Downs Racing, LP (d/b/a Mohegan Sun Pocono) is a Pennsylvania limited partnership that holds a Category 1 slot machine license in the Commonwealth of Pennsylvania, and has its principal place of business at 1280 Pennsylvania 315, Wilkes-Barre, PA 18702.

8. Respondent, Commonwealth of Pennsylvania, Department of Revenue (“Revenue”), is an executive agency of the Commonwealth of Pennsylvania that is statutorily directed, among other things, to operate and administer the Pennsylvania Lottery pursuant to the requirements of Act of August 26, 1971, No. 91 of 1971, as amended, 72 P.S. § 3761-301 *et seq.* (the “State Lottery Law”).

9. Respondent C. Daniel Hassell is the Secretary of Revenue of the Commonwealth of Pennsylvania, and is charged with the statutory duty to operate and administer the Lottery, and to promulgate rules and regulations governing the establishment and operation thereof, in accordance with the requirements of the State Lottery Law.

10. Respondent Hassell is an officer of the Commonwealth.

### **JURISDICTION**

11. The Court has jurisdiction over this action pursuant to 42 Pa. C.S. § 761(a)(1), because this is a civil action against the Commonwealth government and officers of the Commonwealth acting in their official capacities.

12. This is an action for declaratory judgment pursuant to the Pennsylvania Declaratory Judgment Act, 42 Pa. C.S. §§ 7531, et seq.

### **FACTS**

#### **A. Slot Licensure History**

13. In July 2004, the Pennsylvania Race Horse Development and Gaming Act (“Gaming Act”) was enacted, authorizing for the first time the conduct of slot machine gaming in Pennsylvania. The Gaming Act established three categories of slot machine licensees, Category 1, 2 and 3 licensees, which would have the exclusive right to place and operate slot machines in the Commonwealth.

14. After the completion of a costly and extensive application process, each of the Petitioners was awarded their respective category of slot machine license by the Pennsylvania Gaming Control Board. Each Petitioner holding a Category 1 or 2 license paid a \$50 million license fee. Petitioner Valley Forge Casino Resort, as a Category 3 licensee, paid an initial license fee of \$5 million.

15. Pennsylvania's licensed casinos, including Petitioners, collectively have invested over \$2 billion dollars in their casino, entertainment and resort destinations, and employ more than 18,000 Pennsylvanians.

16. Petitioners' businesses, along with Pennsylvania's other casinos, have been an unqualified boon to the Commonwealth and its citizens. Pennsylvania receives more gaming tax revenue than any other jurisdiction in the United States, taking approximately 55 cents of every dollar wagered in one of Petitioners' slot machines. In Fiscal Year 2016-2017, the state's casinos, including Petitioners, generated over \$2.3 billion in slot machine tax revenue.

17. Further, in Fiscal Year 2016-2017, Petitioners' slot operations contributed to more than \$132 million in local share funding that was distributed to host counties and municipalities. Pennsylvania's casinos, including Petitioners, spend approximately \$230 million annually with local business entities.

18. Petitioners' success in slot machine gaming was achieved while operating under a highly regulated environment, ensuring the highest integrity in,

and promoting responsible, gaming. Each Petitioner expends substantial human and financial resources on a comprehensive responsible gaming plan that is overseen by the PGCB. The PGCB maintains an exclusion and self-exclusion list precluding persons from access to gaming, and Petitioners and the PGCB expend significant effort to prevent underage gaming, with Petitioners self-reporting any known instances of the same despite the heavy administrative fines and other sanctions they may face.

**B. Table Gaming Licensure and History**

19. With the tremendous success of slot machine gaming, the Commonwealth enacted legislation in 2010 to expand gaming in Pennsylvania to include table games. Act 1 of 2010 authorized slot machine licensees to obtain a table game operation certificate and entitled them to be the exclusive operator of such games in the Commonwealth.

20. Each of the Petitioners obtained a table game operation certificate, and invested tens of millions of dollars to expand their facilities and hire numerous additional employees to enable them to conduct table gaming.

21. Petitioners holding a Category 1 or 2 slot machine license paid the Commonwealth a certificate fee of between \$16,500,000 and \$24,750,000, depending on when they secured their certificate. Category 3 licensees, like



Petitioner Valley Forge Casino Resort, paid a certificate fee of between \$7,500,000 and \$11,250,000, depending on when their certificate was secured.

22. Collectively, Petitioners generate substantial tax revenue from their table game operations for the Commonwealth's General Fund, as well as local share dollars supporting host counties and municipalities. In Fiscal Year 2016-2017, Pennsylvania's casinos, including Petitioners, generated over \$866.4 million in table game tax revenue and over \$17 million in local share funds.

**C. Authorization to Conduct Interactive Gaming**

23. The General Assembly enacted a second major expansion of gaming in the Commonwealth with the passage of Act 42 of 2017. As part of Act 42, the Commonwealth authorized the conduct of interactive gaming in Pennsylvania, with slot machine licensees having the exclusive right to conduct such interactive gaming in the first instance.

24. Slot machine licensees are entitled to apply for and obtain an interactive gaming certificate that will enable them to conduct peer-to-peer interactive games (e.g., poker), non peer-to-peer games that simulate slot machines, and non peer-to-peer games that simulate table games. If applied for by July 16, 2018, each slot machine licensee must pay a certificate fee of \$10 million. If applied for after that date but by August 14, 2018, each certificate for each type of interactive gaming carries a \$4 million fee. The maximum number of

certificates the PGCB may award is one certificate per type of interactive gaming per slot machine licensee. Interactive gaming certificate holders must pay a \$250,000 renewal fee every five years.

25. Once slot machine licensee's application is submitted, the PGCB has 90 days to approve or deny the application. Substantial regulatory coordination and testing must occur before interactive gaming can be commenced. The PGCB has promulgated temporary regulations directing that the start of interactive gaming will be done simultaneously by all certificate holders.

26. Interactive gaming certificate holders will pay substantial taxes on their interactive gaming revenue. Interactive slot machine gaming will be taxed at 54% of gross interactive gaming revenue, while interactive table games and poker will be taxed at 16%.

27. As of the date of this Petition, Petitioners Parx Casino, Hollywood Casino, Harrah's Philadelphia Casino, Stadium Casino, and Valley Forge Casino have all filed applications seeking an interactive gaming certificate.

**D. Development of Internet Instant Games and iLottery**

28. In 2014, the General Assembly amended the State Lottery Law and authorized the Department to offer "internet instant games."

29. The State Lottery Law defines an "internet instant game" as "a lottery game in which, by the use of a computer, tablet computer or other mobile device, a

player removes the covering from randomly generated numbers or letters which reveal whether the instant ticket is a winning ticket for which money is paid.” 72 P.S. § 3761-302.

30. The State Lottery Law specifically prohibits the Secretary from offering “any Internet-based or monitor-based interactive lottery game or simulated casino-style lottery game, including video poker, video roulette, slot machines or video blackjack, through the State Lottery.” 72 P.S. § 3761-303(a.1).

31. As part of Act 42, which authorized interactive gaming by slot machine licensees, the General Assembly also authorized the Department to launch “iLottery” as a separate and distinct type of online amusement. The iLottery authorization is codified at 4 Pa.C.S. §501 et seq.

32. Pursuant to Act 42, “iLottery” is designated as the “system that provides for the distribution of *lottery products* through numerous channels that include, but are not limited to, web applications, mobile applications, mobile web, tablets and social media platforms that allow players to interface through a portal for the purpose of obtaining *lottery products* and ancillary services, such as account management, game purchase, game play and prize redemption.” 4 Pa.C.S. § 502.

33. “Lottery products” are “plays, shares or chances offered by the State Lottery ... [and] includes instant tickets, terminal-based tickets, raffle games, play-

for-fun games, lottery vouchers, subscription services and gift cards *authorized for sale under the State Lottery Law.*” *Id.* (emphasis added).

34. Act 42 defines “iLottery Games” as “internet instant games and other *lottery products* offered through iLottery.” *Id.*

35. Similar to the State Lottery Law, Act 42 defines the term “internet instant game” as “a lottery game of chance in which, by the use of a computer, tablet computer or other mobile device, a player purchases a lottery play, with the result of play being a reveal on the device of numbers, letters, or symbols indicating whether a lottery prize has been won according to an established methodology as provided by the lottery.” *Id.*

36. Mirroring the State Lottery Law, the term “iLottery” excludes “games that represent physical, Internet-based or monitor-based *interactive lottery games which simulate casino-style lottery games*, specifically including poker, roulette, slot machines or blackjack.” *Id.*

37. On March 30, 2018, the Department promulgated temporary regulations relating to internet instant games offered through iLottery at 48 Pa.B. 1829, and codified at 61 Pa. Code, Chapter 876.

38. Consistent with the statutory prohibition, the temporary regulations exclude “interactive lottery games” and “simulated casino-style lottery games” from the definition “iLottery game,” 61 Pa. Code § 876.2.

39. Notably, the Gaming Act defines a “slot machine” as “Any mechanical or electrical contrivance, terminal, machine or other device approved by the Pennsylvania Gaming Control Board which, upon ... payment of any consideration whatsoever ... is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance ... to receive cash, billets, tickets, tokens or electronic credits to be exchanged for cash .... A slot machine: (1) May utilize spinning reels or video displays or both. (2) May or may not dispense coins, tickets or tokens to winning patrons. (3) May use an electronic credit system for receiving wagers and making payouts. The term shall include associated equipment necessary to conduct the operation of the contrivance, terminal, machine or other device.”

40. On May 22, 2018, the Department launched “iLottery,” offering games played online and on mobile devices. Notably, the period in which Petitioners could apply for an interactive gaming certificate under Act 42 did not even expire until August 14, 2018. The Pennsylvania Gaming Control Board is statutorily entitled to consider such applications for 90 days, with the actual commencement of casino interactive gaming not projected to occur until sometime in 2019.

41. Despite the clear prohibition contained in the State Lottery Law, Act 42, and the temporary regulations promulgated by the Department, the Department currently is offering through iLottery interactive lottery games and games that simulate slot machines and casino-style games.

42. Indeed, *the Department has even advertised its iLottery offerings through affiliate marketing agreements as “Slot-Style Games” and “Casino Style Games.”* True copies of online advertisements for iLottery are attached as Exhibits A and B.

43. On June 20, 2018, the Department publicly claimed that these advertisements were distributed by affiliates, and claimed that the advertisements were “inaccurate” and that they were immediately corrected. However, subsequent to the Department’s acknowledgment of inappropriate marketing and claimed rectification of the alleged inaccuracies, the Department *continued to market* its iLottery offerings using online advertisements that portray iLottery products as **“instant win slot-style games”** as demonstrated in Exhibits C and D.

44. True to its advertising, iLottery offerings are casino-style games that mimic the look, sounds, and feel of slot machines. The games also meet the Gaming Act’s definition of a “slot machine.”

45. Several games offered by iLottery – including Volcano Eruption Reveal, Robin Hood, Super Gems, Slingo, Big Foot and Monster Wins – are the

same titles and/or themes as games offered on Petitioners' gaming floors, the gaming floors of other Pennsylvania casinos and/or by online gaming operators (not state lotteries) in jurisdictions outside of Pennsylvania.

46. All of the iLottery games feature the same user interface as a slot machine, and have the same interactive appearance, feel, and play experience that a player would expect from land-based and online slot machines. These features include graphics, animation, suspenseful music, flashing lights, bells or sounds played when combinations are hit, and similar visual and auditory features.

47. Several of the iLottery games require the player to "Bet," "Set Bet," "Choose Bet," "Select Bet," "Select Bet Amount," or press a "Bet" button, as is typically seen in casino-style games and slot machines, whereas traditional Lottery products do not use the term "bet" or other betting terminology.

48. Several of the iLottery games feature symbols, such as dice, cherries, and the like, or use terms like, "pick a card," that are commonly used in and associated with casino-style games.

49. Multiple iLottery games feature a spin function, wheels or cascading tiles and symbols as found in casino-style games.

50. Numerous iLottery games have an instant reveal function, associated with slot machines, and allow the player to immediately proceed to the next game with the press of a button.

51. Games are offered in denominations, such as a penny or dime, which are typically offered in casino slot games and not in any other Lottery products.

52. The betting structure of the iLottery games is identical to a slot machine. Players can “buy up” or take advantage of multipliers, whereby they increase their bet and can win additional games or higher amounts of money, which is a classic slot machine element. Several games even feature a prize table or payable with the bet multiplier showing the prize increasing in conjunction with the bet.

53. Several iLottery games offer bonus plays and spins, again mirroring the betting structure of a slot machine. Several games include “pick bonuses,” which are a common feature present in hundreds of varieties of slot machines.

54. The presence of dynamic change, whether in the amount of the prize or the number of plays, is consistent with casino-style, and not lottery, games.

55. Several iLottery games adopt the traditional “3x3” slot machine structure that has 3 reels. Players win by aligning various symbols horizontally, vertically and diagonally, and win bonus spins or games when the same symbols align. In multiple iLottery games, the reveal is also made across the columns, which is a common slot machine style reveal.

56. In recent years, slot machines have been designed with variations such as “5x3”, “5x4”, and “5x5” structures, and are commonly referred to as 5-reel slot



machines. Petitioners operate slot machines with the traditional “3x3” structure and the more modern 5-reel structure in their licensed facilities.

57. Some iLottery games utilize a “scattered pay” game design featured in many contemporary slot machines, in which a player wins by achieving the requisite number of particular symbols in a scattered or non-linear pattern, with the same bonus opportunities as payline designed slot machines.

58. The winner of all lottery games is predetermined. However, certain iLottery games, such as Big Eats Little, gives the illusion of choice or decision-making consistent with a slot machine. Other iLottery games, such as Cash Buster Towers and Super Cash Busters, give the illusion of randomness, which is inconsistent with a lottery game.

59. Just like slot machines, the iLottery games are certified by GLI, Gaming Laboratories International.

60. Overall, the games have the same backbone as a slot machine; an outcome that is determined by a random number generator with animated graphics and computer operations used to provide a visual depiction of that outcome.

61. Moreover, the Department has chosen to make these casino-style betting games available to patrons under the age of 21, in direct contrast to the limitations imposed on Petitioners for interactive gaming.

62. The Department has changed its typical lottery payout percentage to match the statutorily required payout percentage for a slot machine, and features iLottery games in denominations as low as 1 cent (*i.e.*, penny slots).

63. Further, the Department is employing two key casino tools – free play and a casino-style patron loyalty program – that further emphasize that the iLottery offerings are, in fact, casino-style games.

64. The Department's launch of iLottery with casino-style games, and authorizing betting by patrons under the age of 21, is in direct violation of Act 42 and the State Lottery Law and is a direct incursion by the State into the exclusive market of the licensed gaming operators, such as Petitioners.

65. Petitioners now bring this action for a declaration that the Department's iLottery offerings violate the clear prohibition of Act 42 and the State Lottery Law. Further, Petitioners request permanent injunctive relief to preclude the Department from offering iLottery games that simulate casino-style games and slot machines, as required by the applicable statutes.

## COUNT I – DECLARATORY RELIEF

66. Petitioners incorporate by reference the preceding paragraphs as though more fully set forth.

67. An actual controversy exists between the parties, because the Department is offering games that are specifically prohibited by statute and that infringe upon the rights of Petitioners under their licenses.

68. Under the Gaming Act, only slot machine licensees holding table game certificates, including Petitioners, may conduct and operate casino games, including slot machines and table games.

69. Through the 2017 amendments to the Gaming Act, the General Assembly created an exclusive right in slot machine licensees, in the first instance, to offer online casino games pursuant to interactive gaming certificates.

70. In the same legislative enactment, the General Assembly authorized the Department to offer iLottery, provided that iLottery *did not* offer online games that simulate casino-style games.

71. The plain intention of Act 42 was to authorize online lottery games while preserving the rights of the Petitioners – who must pay a minimum of \$10 million each to obtain interactive gaming certificates (as well as a renewal fee of \$250,000 each every 5 years) – to offer interactive gaming without unfair

competition from iLottery, which has no license fees, a lower age restriction, pays no taxes, and enjoys the imprimatur of the Commonwealth.

72. The Department's continued offering of the iLottery games is contrary to the express prohibition in the State Lottery Law and in Act 42, and its violation causes actual injury to Petitioners by infringing on the rights that are granted under the Gaming Act and Act 42.

73. Violation by the Department of its enabling legislation is *per se* irreparable injury, and Petitioners are entitled in injunctive relief to enjoin the Department's ongoing violations.

74. There is no public interest served by allowing the Department to continue offering the unlawful iLottery games, as the General Assembly has established the public policy to be in favor of precluding the Department from offering casino-style games.

WHEREFORE, Petitioners respectfully request that this Court issue and

Order:

- (a) Declaring and decreeing that the Department's iLottery games simulate slot machines and casino-style games;
- (b) Permanently enjoining the Respondents from offering iLottery games that simulate slot machines or casino-style games; and
- (c) Granting any other relief deemed just and reasonable.

Respectfully submitted,



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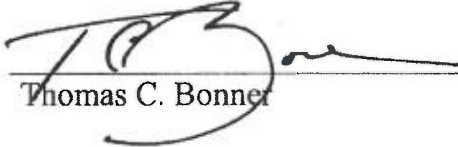
Date: August 22, 2018

Attorneys for Petitioners

## VERIFICATION

I, Thomas C. Bonner, am an authorized representative of Greenwood Gaming and Entertainment, Inc. (d/b/a Parx Casino), and I am authorized to make this verification on its behalf. No one person has knowledge of every fact averred in the foregoing Petition for Review, and the facts averred have been derived from business records of Petitioners and public records, and assembled by authorized representatives, employees, and counsel. I hereby verify and affirm that the statements made in the foregoing Petition for Review are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: 8/21/2018

  
Thomas C. Bonner

# **EXHIBIT A**

**Sign Up Now and get \$5 Free Play at  
PA iLottery!**



**\$5 FREE**

- ✓ Instant Win Slot-Style Games
- ✓ \$5 free just for signing up
- ✓ Play on any device

**PLAY NOW**



# **EXHIBIT B**

Signup Now and get \$5 Free Play at PA  
iLottery!



**\$5 FREE**

- ✓ Get \$5 Free on signup
- ✓ Casino Style Games
- ✓ VIP Rewards

**PLAY NOW**

# **EXHIBIT C**

PA ONLINE CASINOS ARE STILL NOT HERE, BUT WILL HAVE COMPETITION FOR PA LOTTERY

# ONLINE POKER REPORT

US ONLINE POKER PENNSYLVANIA ONLINE CASINOS NJ ONLINE CASINOS NY ONLINE POKER

Home / US Online Poker / Pennsylvania / Why Pennsylvania iLottery Could Give Online Casinos A Run For Their Money

## Why Pennsylvania iLottery Could Give Online Casinos A Run For Their Money

Steve Ruddock, Jul 10, 2018 05:32 PDT @SteveRuddock



The Pennsylvania Lottery launched instant win online tickets a little more than a month ago, and so far the games are performing well.

According to the PA Lottery, 45,000 players registered online accounts during its first month. Those players collectively wagered \$21.6 million, with the online lottery games generating \$2.9 million in revenue.

Those numbers are impressive considering the PA online lottery is still in what can best be described as a soft-launch phase.

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## Pennsylvania online lottery is ahead of schedule

The PA iLottery generated \$21.6 million in sales despite offering only a dozen or so instant-win games. For comparison, the Michigan online lottery, the current gold standard by which all other US online lotteries are measured, offers 58 instant win games, as well as online draw games, pull tabs and Keno.

But Michigan didn't come out guns blazing.

It took the MI iLottery from its launch in August 2014 until January 2015 to register 87,000 accounts and generate \$3.7 million in revenue. As one of the first states to launch an online lottery, Michigan held off on marketing until November, a decision that helps explain the slow start and subsequent growth.

### LATEST POSTS



The Stars Group Is Now The Largest Public Online Gaming Company After Completing Sky Betting Deal



What's Behind The Recent Rise In WSOP Main Event Attendance?



New Technology That Streamlines Online Gambling Self-Exclusion Gains Support Of National Group



Record-Setting Summer For WSOP Sets A New Bar For US Online Poker



PokerStars' US Poker Tour Commemorates 15th Anniversary Of Moneymaker's WSOP Win



New Jersey's Online Poker Sites: A Poker Player's Review

INSIDE NJ'S REGULATED ONLINE CASINOS  
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By John Mackillop  
NJ Online Casino List, News, FAQs

### REGULATED ONLINE POKER SITES



WSOP.com Online Poker For Real Money In Nevada



Bet365 Poker Bonus Code 2018

Michigan's product has grown by leaps and bounds in each of its first three years:

- **FY 2014-2015:** \$18.5 million in net online profit off of \$146,189,761 in sales.
- **FY 2015-2016:** \$48 million in net online profit off of \$384,992,537 in sales.
- **FY 2016-2017:** \$77.9 million in net online profit off of \$613,382,462 in sales.

If Pennsylvania can replicate Michigan's unfettered growth, the state could have online lottery sales of **\$100 million** per month.

## Nine-figure months for PA iLottery?

Pennsylvania has several factors working in its favor that should get it to \$100-million months:

- PA will eventually match Michigan's **robust** online lottery offerings.
- PA is a larger state with a population of around **13 million**, compared to Michigan's population of ten million.
- Michigan and the other online lottery states provide a **model**.
- The lottery has already **partnered with Income Access** to run its **affiliate program** and promote the PA iLottery.
- Several major population centers in **neighboring states** sit just over the PA borders.

That said, Pennsylvania's online lottery will have to deal with something not found in Michigan: **Competition**.

In addition to its online lottery, Pennsylvania is also preparing to roll out **online casino** games. Those games will be run by the state's **land-based casinos**.

## Casinos are unhappy with the PA online lottery

Not surprisingly, the possibility of the PA online lottery doing **\$1.2 billion** per year in online sales isn't sitting well with the state's casinos. In late June, the 12 of them banded together and **sent a letter to Gov. Tom Wolf**, asking him to shut down the state's nascent online lottery.

The casinos claim online instant win tickets are online slot machines by another name.

*"In virtually every way imaginable, Lottery's iLottery program mimics a casino operation offering simulated casino-style games in direct contravention of (the law's) express prohibition on Lottery offering 'interactive lottery games which simulate casino-style games.'"*

Per the law that legalized online lottery products, the definition of online lottery games:

*"[Does] not include games that represent physical, Internet-based or monitor-based interactive lottery games which simulate casino-style lottery games, specifically including poker, Roulette, slot machines and Blackjack."*

Based on the language of the gaming reform law, and the lottery's own use of the word slots in its marketing, the casinos have a **legitimate gripe**.

Unfortunately, the result of the letter wasn't a rollback of online lottery games, rather the lottery has simply agreed to stop using the word **"slots"** in its advertising.

What makes the resemblance more problematic for the casinos is the age requirement to play online lottery games is **18 years old**. Conversely, players will need to be 21 to play at online casinos.

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**PA iLottery Review**

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- ✓ \$5 free on signup!
- ✓ 100% legal in Pennsylvania

**GET BONUS**

## It all circles back to the absurd PA tax rate

This probably wouldn't be such a hot topic issue if it weren't for the onerous **54 percent tax** Pennsylvania slapped on online slots.

The hefty tax rate will ensure online slots have a **return to player (RTP)** in the same neighborhood as the online lottery's instant win games. Pennsylvania's online lottery instant win tickets had an RTP of nearly **87 percent** in June.

Even though the 87 percent RTP is low by casino slot standards (particularly **online slots**), it's extremely high for a lottery product. By comparison, slots at Pennsylvania's casinos have an average RTP in the 88-90 percent range. Online slots tend to have an RTP of **95 percent-plus**, but because of the tax burden, that might not be the case in PA.

Casinos are already concerned they can't profitably run an online casino, regardless of the RTP they offer, because of the rate.

To overcome the lottery's built-in advantages, casinos are going to need to beat the lottery's RTP by more than a **few percentage points**. The tax rate makes that highly unlikely.

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*Steve Ruddock - Steve covers nearly every angle of online poker in his job as a full-time freelance poker writer. His primary focus for OPR is the developing legal and legislative picture for regulated US online poker and gambling.*

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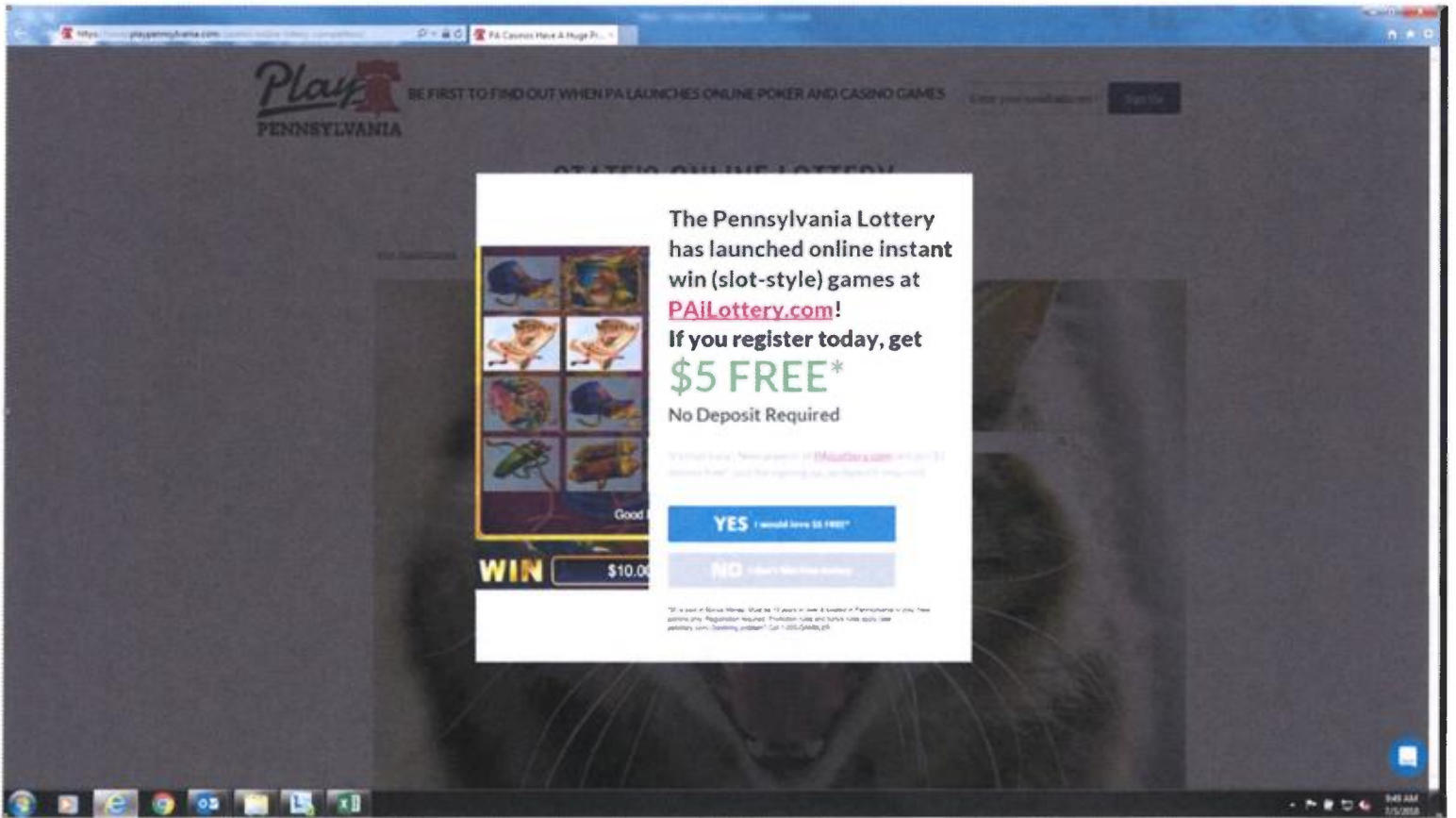
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# **EXHIBIT D**





BE FIRST TO FIND OUT WHEN PA LAUNCHES ONLINE POKER AND CASINO GAMES

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WIN \$10.00

The Pennsylvania Lottery has launched online instant win (slot-style) games at [PAiLottery.com](http://PAiLottery.com)! If you register today, get **\$5 FREE\*** No Deposit Required

\*\$5 in play at Slots World. Must be 18 years or over & located in Pennsylvania to play. Free spins only. Registration required. Promotion ends and bonus code ends soon. See play rules for complete details. See PAiLottery.com for full details.

**YES** I would love to play!

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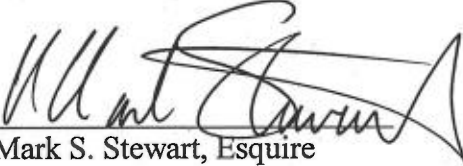
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Commonwealth of Pennsylvania  
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Honorable Josh Shapiro  
Attorney General  
Office of Attorney General  
16<sup>th</sup> Floor, Strawberry Square  
Harrisburg, PA 17120  
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Date: August 22, 2018

  
Mark S. Stewart, Esquire