

**TESTIMONY  
of  
BRENT MAYES  
PRESIDENT  
VENTURE GAMING/PRO ATM**

**AND**

**RICK KIRBY  
EXECUTIVE VICE PRESIDENT  
BETSON ENTERPRISES**

**On Behalf of The  
PENNSYLVANIA VIDEO GAMING  
ASSOCIATION  
(PAVGA)**

**Before The**

**PENNSYLVANIA SENATE  
COMMUNITY, ECONOMIC,  
AND  
RECREATIONAL DEVELOPMENT  
COMMITTEE**

**OCTOBER 2, 2023**

Good morning, Chairman Gebhard, Chairman Williams and members of the Committee. Thank you for inviting us to attend this hearing on behalf of the Pennsylvania Video Gaming Association (PAVGA) to comment on the current environment in Pennsylvania related to video gaming terminals (VGTs) regulated by the Pennsylvania Gaming Control Board (PGCB) under The Pennsylvania Race Horse Development and Gaming Act (“Gaming Act”), 4 Pa C.S. Section 1101 et seq.

My name is Brent Mayes, and I am the President of Venture Gaming/Pro ATM based in Lawrence County. My company is engaged in providing ATM machines throughout the tri-state region and video gaming terminals to licensed Pennsylvania truck stop establishments. You should know that I am the only current VGT licensed operator in western Pennsylvania who holds both a Principal

Gaming License and an Entity Gaming License as required under Title 4 and regulated by the PGCB.

I am joined today by Rick Kirby, Executive Vice President of Betson Enterprises. Betson Enterprises is a 4<sup>th</sup> generation family-owned and operated business headquartered in Carlstadt, New Jersey. Betson, a distributor of coin-operated amusement equipment, is also a licensed video gaming distributor in Pennsylvania and other regulated jurisdictions and has operated an office in Pittsburgh since 1983. Rick is a 45-year veteran in the amusement and gaming industry having worked in many states across the country.

We have been asked to testify on behalf of the current regulated VGT industry in Pennsylvania and to offer possible recommendations for reforming the current law as it relates to video gaming terminals to assure a safe gaming environment statewide, a consumer-friendly entertainment experience, an efficient licensing and regulatory process, and a robust economic development return for Pennsylvania municipalities, counties, and the Commonwealth of Pennsylvania.

As you know, Part III of Title 4 was amended into law on October 30, 2017 (Act 42 of 2017, P.L. 419) to permit the licensing and operation of video gaming terminals in select locations across Pennsylvania—namely truck stops maintaining a minimum footprint of 3 acres, 20 commercial parking spaces, and dispensing a monthly average of 50,000 gallons of diesel fuel per annum.

After the passage of Act 42, companies were allowed to begin applying for licensure to hold an Establishment, Terminal Operator, Distributor or Manufacturer license. PAVGA members are licensed under the Act, some as operators, some as distributors, and some as manufacturers. We have cooperated with the PGCB and diligently attempt to assist the Board in accomplishing its goal of protecting the public by complying with its regulations, policies, and directives.

We recognize that implementing the amended statutory provisions of 2017 has been a challenge for all involved. At times the growing pains and implementation of the amendments has been difficult for the Board, our operators, the manufacturers, the distributors, and the establishments seeking to offer this regulated form of entertainment to Pennsylvania consumers. In 2017 it was estimated that approximately 150 qualifying truck stop locations across the Commonwealth would be eligible to become VGT establishments. As of July 31, 2023, the Board reports that Pennsylvania has only 69 licensed VGT sites with approximately 345 terminals located statewide and operated by 4 licensed operators. An affiliate of a Pennsylvania casino, Penn National Gaming, operating under the name Marquee by Penn, is the largest operator of VGT establishments in Pennsylvania with 30 locations.

These regulated terminals generated approximately \$3.353 Million in gross terminal revenue in the month of July 2023, a revenue decrease of 7.8% over July 2022 revenues. In July 2023 the Commonwealth and local governments had VGT tax receipts of \$1.743 Million at the current 52% tax rate. The tax receipts were also lower than those remitted in July 2022. Establishments hosting regulated terminals receive 15% of the gross terminal revenue as required by law. The

trend in declining revenues and tax receipts has steadily continued throughout the calendar year 2023 impacting state and local government and the small businesses licensed as establishments.

As you have requested our thoughts regarding sensible reforms to the current regulated VGT industry under Title 4 PAVGA and its members would recommend a series of detailed changes to the current law under three broad areas.

- **Provide for a sizeable increase in the number and availability of regulated VGT terminals in Pennsylvania.**
- **Ensure that all gaming terminals in Pennsylvania are licensed under a regulatory process that is fair and equitable to all.**
- **Improve support for the hosting establishments by enhancing revenues in a regulated environment and easing cumbersome workforce and employment licensing requirements.**

In 2017 when changes were contemplated to the Gaming Act, our industry encouraged a robust regulated VGT environment in Pennsylvania that was modeled off the successful law and now-mature market existing in Illinois. Illinois passed its VGT law in 2009 and commenced operations in 2012. Today, VGT entertainment co-exists with casino entertainment in the marketplace (Chicago does not permit regulated VGTs) wherein 6 new casinos have recently been licensed in Illinois for a total of 15 casinos while there are approximately 45,000 VGT terminals hosted at approximately 8,500 establishments. Last year these regulated terminals yielded approximately \$800 Million in state and local tax revenue. Tax revenue from VGTs in Illinois has continued to grow annually since terminals were regulated. Concurrently, licensed casinos are flourishing in Illinois.

PAVGA recognizes that the prerogative for permitting any gaming activity in Pennsylvania rests with the legislative and executive branches of our state government. We understand that the General Assembly will decide what form of gaming is best for the safety and success of the Pennsylvania consumer. Yet PAVGA would maintain, as we did almost 7 years ago, that permitting VGT machines in PA LCB-licensed liquor pouring establishments and fraternal clubs and organizations would put Pennsylvania on par with Illinois in terms of the number of licensed establishments, terminals, and annual tax receipts. In all cases, these terminals and establishments must be regulated by the PGCB in a system that is stable, predictable and without discretionary influences and policies.

The cost to participate in the regulated video gaming market, with limited opportunity for growth, is such that many companies, many of which are family-owned, simply refuse to make an investment in the regulated Pennsylvania VGT market. As a distributor, Betson has made commitments in the Commonwealth in infrastructure buildout, commitments to our employees, and commitments to our customers (we assure them appropriate parts and service after the purchase of our machines). There is not enough opportunity to recapture the financial investment and operating capital required to get started and stay in business in Pennsylvania. A robust available marketplace would be the incentive to stay in a regulated business but in

Pennsylvania today it is easier, cheaper, and more lucrative to distribute unregulated games. More opportunities to locate regulated games across Pennsylvania would be the best incentive to stay and invest in Pennsylvania communities.

To avoid the regulated environment and minimal opportunity in Pennsylvania, highly qualified investors and viable private and publicly traded companies simply stay away from Pennsylvania. Small establishments quickly learned they could operate and make money in an unregulated system that allows a minimal financial investment, no regulation on wagering or payouts, no licensing costs, no real time reporting of terminal activity or quality control inspections by the regulator, no criminal history background checks for owners and operators, and none of the many other requirements with which I must comply in the regulated system. This side of the industry, completely unregulated without PGCB oversight, without tax revenue collection for the state or local government, and with dubious requirements placed on local establishments, appears to be a far easier and lucrative approach for investors who want to enter the gaming market in Pennsylvania without the restrictions associated with regulation. The current regulated arrangement is driving many operators into this far easier and more lucrative unregulated version of gaming.

What types of restrictive regulation, policies and directives come from the PGCB and should be amended in a reform of the Act?

The Committee might look at the qualification requirements for licensing that currently require facilities to sell a monthly average of 50,000 gallons of diesel fuel annually or that require a 3-acre minimum footprint. We see nothing that enhances siting or safety because of these requirements. Sites on one or two acres would be no less desirable for terminals. If a site dispenses only 25,000 gallons of diesel fuel in one month, does that somehow make a VGT terminal less consumer friendly or problematic? As America and Pennsylvania work to aggressively incentivize automobile manufacturers to produce electric vehicles in all forms, the current diesel fuel regulations will soon make truck stop VGT establishments obsolete. I believe a 10,000-gallon monthly diesel fuel sale minimum for licensure is adequate and will open up availability to the consumer.

PAVGA has repeatedly suggested that the onus on hiring staff at VGT establishments is both impractical and unrealistic. In today's environment where workforce challenges confront many industries and professions, we find the requirements on hiring including criminal background checks, providing individual tax returns, the completion of extensive paperwork, and other requirements to easily deter prospective employees from wanting to work at an establishment hosting VGT terminals. Licensing employees is a huge burden to doing business as an establishment. Every regulated establishment today must have 5 licensed gaming employees on staff and at least one on site during business hours or the terminals are required to be shut down, consumers are denied access to the gaming area, and the Commonwealth loses the opportunity to increase tax revenue. Finding those workers for a 24-hour-a-day truck stop establishment is impractical and the Commonwealth is losing precious tax revenue. The establishment relying on terminal revenue is also losing.

These requirements have had a chilling effect on the small businesses which once considered providing their customers with regulated VGTs. Now many eligible stops do not want to host VGTs. This may be one reason why Pennsylvania has nowhere near the 150 truck stop establishments estimated in 2017. The high turnover of workforce at truck stops is a challenge which often leads to darkened operations during normal business hours, a reduction in tax collection, a dissatisfied consumer, and a revenue shortfall for small local establishments relying on the VGT revenue stream.

To be clear, PAVGA supports full and practical background checks for the establishment owner and one Video Gaming Manager at each location consistent with what is currently required. But, cashiers, store clerks, maintenance employees and other on-site workers should not have to satisfy the current background check requirements. While these employees are responsible for monitoring the video gaming area to restrict underage patrons and address problem gambling issues, they do not participate in video gaming revenue, are not responsible for handling money related to the terminals, have no access to the money or the inner workings of the terminals and are not otherwise responsible for managing or operating the terminals. We encourage the Committee to focus on having these employees simply register with the PGCB and be required to undergo training on at least an annual basis to focus on the establishment's compliance with PGCB rules and to properly monitor the video gaming area. This approach would allow more employees to be available to assist with the monitoring of the video gaming area shortly after being employed as opposed to the current timeline where new employees often wait weeks or months before completing the licensing process and receiving their gaming credentials. Unlike casinos where there is ample opportunity for growth within the organization and across multiple positions, the truck stop establishment business is not comparable.

PAVGA supports having all local share payments direct back to the local municipality where the VGT establishment is located. The Act should be amended to allow the local share to be directed to the city, township, or borough for use as they see fit. The current process of depositing the assessment into a restricted account is an unnecessary and time-consuming step that slows the timely distribution of funds to the municipality.

One reform the Committee might consider would be to allow establishment owners hosting video gaming terminals to be paid a higher percentage of the gross terminal revenue from each terminal instead of the current 15% in the Act. This is simply another reason why so many establishments in Pennsylvania are moving into the unregulated gaming environment. Unregulated they can make more money by taking a much higher percentage of terminal revenue. The three-tier Illinois model dedicates 33% of gross terminal revenue to the hosting establishment, 34% to state and local government, and 33% to operators. This three-tier system has proven to be appropriate, fair, and has created incentives for the establishments to operate a safe, clean, fair, and regulated VGT operation for the protection of the consumer.

The three-tier system is generally accepted practice in regulated states across America. As the General Assembly continues to seek reaching "parity" in the gaming industry PAVGA would offer two points of fact:

- First, establishments in the current regulated environment only collect 15% of the gross terminal revenue.
- Second, current regulated VGT operators pay out 69% of gross terminal revenue for taxes and establishments.

Both these percentages need to be adjusted to create true parity with other forms of gaming in Pennsylvania including unregulated gaming.

In conclusion PAVGA supports amending the Gaming Act to allow for a greater number of VGT establishments and terminals in Pennsylvania at truck stops, LCB-licensed liquor pouring establishments, and at fraternal clubs and non-profit societies. The expansion of where VGTs are offered will allow manufacturers, distributors and operators to remain incentivized to reinvest in the products available in the Commonwealth, which will be critical to the future success of the VGT industry.

We believe employee licensing, hiring requirements and background check language currently in the law should be amended to allow for practical hiring practices that do not deter prospective applicants in today's difficult workforce environment from applying.

PAVGA believes the local share collected from VGT operators should be remitted directly to the local municipality where the video gaming establishment is located and on a more frequent basis to avoid delays in the funds being available at the local level.

Most importantly, PAVGA believes true parity applied across all forms of gaming in Pennsylvania requires changes to the current assessments made of regulated VGT operators and to the revenue collection provided to hard-working establishments.

We thank the Committee members and Chairman Gebhard and Chairman Williams for inviting us to testify today. We look forward to working with you and your staff in the coming weeks to fashion meaningful and reasonable VGT reform. We are both happy to answer any of your questions. THANK YOU!