

Delaware Statutes

TITLE 10. COURTS AND JUDICIAL PROCEDURE

PART I. ORGANIZATION, POWERS, JURISDICTION AND OPERATION OF COURTS

CHAPTER 9. THE FAMILY COURT OF THE STATE OF DELAWARE

SUBCHAPTER 11. JURISDICTION AND POWERS

§ 922. Exclusive and concurrent original criminal jurisdiction.

(a) Except as provided in subsections (b), (c) and (d) of this section, the Court shall have exclusive original criminal jurisdiction in all proceedings in this State concerning the following, the enumeration of which shall not be construed to exclude jurisdiction otherwise conferred upon the Court:

- (1) Ill treatment, abuse, abandonment or contributing to the delinquency of a child, or any misdemeanor committed against a child;
- (2) Offenses, except felonies, committed by one member of a family against another member of the family, and criminal cases, except felonies, in which one member of a family is complainant against another member of the family;
- (3) Offenses, except felonies, in which the defendant is a member of a family and the complainant is a peace officer and the criminal act complained of was committed during a family altercation;
- (4) Misdemeanor criminal non-support and misdemeanor aggravated criminal non-support under 11 Del.C. § 1113;
- (5) Illegitimacy proceedings under 13 Del.C. §§ 1321-1335 [repealed];
- (6) Children of immoral parents under 13 Del.C. § 706 [repealed];
- (7) Aiding a child who escapes from the Department of Services for Children, Youth and Their Families under 31 Del.C. § 5311;
- (8) Cruel treatment and wrongful disposition or employment of children under 11 Del.C. § 1102, 12 Del.C. § 3905;
- (9) Interference with custody of a child under 11 Del.C. § 785;
- (10) Placing a resident or bringing a nonresident dependent child into Delaware without consent of the Department of Services for Children, Youth and Their Families under 31 Del.C. §§ 307, 351, except as provided in the Interstate Compact for Juveniles;
- (11) Sale or delivery of an alcoholic beverage to a child under 4 Del.C. § 904;
- (12) Permitting a child to remain where alcoholic beverages are sold under 11 Del.C. § 1106;
- (13) Permitting a child to be present where gambling activity is maintained or conducted under 11 Del.C. § 1106;
- (14) Sale of weapons to a child under 24 Del.C. § 903;
- (15) Sexual assault on a child under 11 Del.C. § 761;
- (16) Intra-family offenses against the person under 11 Del.C. §§ 601, 602, 611;
- (17) Incest under 11 Del.C. § 766;
- (18) Reciprocal support proceedings against or on behalf of nonresidents under 13 Del.C., c. 6, where appropriate;
- (19) Unlawful sexual contact in the third degree against a child under 11 Del.C. § 767;
- (20) Violation of a protective order under 11 Del.C. § 1271A;
- (21) Offenses involving the reporting of new hires under § 1156A of Title 30.

(b) The Court shall have concurrent criminal jurisdiction with the Justice of the Peace Court in all proceedings concerning alleged curfew violations under §§ 39-14 through 39-16 of the Wilmington Code.

(c) The Court shall have concurrent criminal jurisdiction with the Justice of the Peace Courts in all proceedings concerning alleged curfew violations pursuant to any municipal ordinance.

(d) Notwithstanding the provisions of subsections (a)(1)-(a)(3), (a)(17) and (a)(20) of this section, if offenses or criminal cases within the exclusive original jurisdiction of Family Court otherwise may be joined properly with a felony within the jurisdiction of Superior Court, such offenses or criminal cases shall be within the jurisdiction of Superior Court.

(10 Del. C. 1953, § 922; 58 Del. Laws, c. 114, § 1; 58 Del. Laws, c. 497, § 4; 63 Del. Laws, c. 93, § 1; 64 Del. Laws, c. 108, §§ 6, 20; 66 Del. Laws, c. 189, §§ 1, 2; 66 Del. Laws, c. 269, §§ 13, 14; 68 Del. Laws, c. 66, §§ 1, 2; 69 Del. Laws, c. 160, § 3; 70 Del. Laws, c. 100, § 4; 70 Del. Laws, c. 318, § 2; 70 Del. Laws, c. 448, § 3; 71 Del. Laws, c. 29, §§ 1, 2; 71 Del. Laws, c. 176, § 3; 71 Del. Laws, c. 216, § 158.)

PART IV. SPECIAL PROCEEDINGS

CHAPTER 71. INJUNCTIONS AND ABATEMENT OF NUISANCES INVOLVING SOCIAL VICES

§ 7101. Definitions.

As used in this chapter:

(1) "Illegal drug activity" means the unlawful selling, serving, storing, giving away or manufacturing (which includes the production, preparation, compounding, conversion, processing, packaging or repackaging) of any drug, which includes all narcotic or psycho-active drugs, cannabis, cocaine and all controlled substances as defined in the Delaware Uniform and Controlled Substance Act, Title 16.

(2) "Nuisance" means any place in or upon which lewdness, assignation, prostitution, illegal gambling or illegal drug activity is conducted, permitted, continued, or exists, and the personal property and contents used in conducting or maintaining any such place for any such purpose.

(3) "Person" or "whoever" includes any individual, corporation, association, partnership, trustee, lessee, agent, or assignee.

(4) "Place" includes any building, erection, or any separate part or portion thereof, or the ground itself.

(30 Del. Laws, c. 234, § 1; Code 1935, § 5272; 10 Del. C. 1953, § 7101; 53 Del. Laws, c. 360; 69 Del. Laws, c. 248, §§ 1, 2.)

TITLE 11. CRIMES AND CRIMINAL PROCEDURE
PART I. DELAWARE CRIMINAL CODE
CHAPTER 5. SPECIFIC OFFENSES
SUBCHAPTER V. OFFENSES RELATING TO CHILDREN AND
INCOMPETENTS
SUBPART A. CHILD WELFARE; SEXUAL OFFENSES

§ 1106. Unlawfully dealing with a child; class B misdemeanor.

A person is guilty of unlawfully dealing with a child when:

- (1) The person knowingly permits a child less than 18 years old to enter or remain in a place where unlawful sexual or narcotics or dangerous drugs activity is maintained or conducted; or
- (2) The person knowingly permits a child less than 18 years old to enter or remain in a place where gambling activity which is made unlawful by this Criminal Code is maintained or conducted; or
- (3) The person, being the proprietor or person in charge of any dance house, concert saloon, theater, museum or similar place of amusement, where wines or spirituous or malt liquors are sold or given away, knowingly admits or permits to remain therein any minor under the age of 18 years, unless accompanied by a parent or guardian.

Unlawfully dealing with a child is a class B misdemeanor.

(11 Del. C. 1953, § 1106; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 68 Del. Laws, c. 384, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 318, § 1.)

SUBCHAPTER VII. OFFENSES AGAINST PUBLIC HEALTH, ORDER AND
DECENCY
SUBPART A. RIOT, DISORDERLY CONDUCT AND RELATED OFFENSES

§ 1336. Wiretapping and electronic surveillance.

(a) As used in this section:

- (1) "Aggrieved person" means a person who was a party to any intercepted wire or oral communication or a person against whom the interception was directed.
- (2) "Communication common carrier" means any person engaged as a common carrier for hire, in intrastate, interstate or foreign communication by wire or radio or in intrastate, interstate or foreign radio transmission of energy; but a person engaged in radio broadcasting shall not, while so engaged, be deemed a common carrier.
- (3) "Contents," when used with respect to any wire or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport or meaning of that communication.
- (4) "Court of competent jurisdiction" means the Superior Court of this State.
- (5) "Intercept" means the aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical or other device.
- (6) "Intercepting device" means any electronic, mechanical or other device or apparatus that can be used to intercept a wire or oral communication other than:

a. Any telephone or telegraph instrument, equipment or facility, or any component thereof, furnished to the subscriber or user by a communication common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business, or being used by a communication common carrier in the ordinary course of its business or by an investigative or law-enforcement officer in the ordinary course of duties;

b. A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(7) "Investigative or law-enforcement officer" means any officer of the State or a political subdivision thereof who is empowered by law to conduct investigations of, or to make arrests for, any offense enumerated in this section and any attorney authorized by law to prosecute or participate in the prosecution of any such offense. It shall also include any officer of the government of the United States or any agency thereof who is empowered by law to conduct investigations of, or to make arrests for, any offense involving the laws of the United States and any attorney authorized by a law of the United States to prosecute or participate in the prosecution of any such offense.

(8) "Judge," when referring to a judge authorized to receive applications for, and to enter, orders authorizing interceptions of wire or oral communications, means 1 or more of the several Judges of the Superior Court to be designated from time to time by the President Judge of the Superior Court to receive applications for, and to enter, orders authorizing interceptions of wire or oral communications pursuant to this section.

(9) "Oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation.

(10) "Person" means a human being who has been born and is alive, and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality and includes any officer or employee of the State or a political subdivision thereof.

(11) "Wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by wire, cable or other like connection between the point of origin and the point of reception furnished or operated by a telephone, telegraph or radio company for hire as a communication common carrier.

(b) (1) Except as otherwise specifically provided in this section or otherwise by law, any person who: (i) Wilfully intercepts, endeavors to intercept or procures any other person to intercept or endeavor to intercept any wire or oral communication; or (ii) wilfully discloses or endeavors to disclose to any other person the contents of any wire or oral communication, or evidence derived therefrom, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this section; or (iii) wilfully uses or endeavors to use the contents of any wire or oral communication, or evidence derived therefrom, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this section; shall be guilty of a class G felony.

(2) In any prosecution for a gambling offense, evidence that a police officer, when making an arrest or executing a search warrant for a gambling offense, or in connection with a gambling offense, received or overheard telephone messages intended for the accused or an associate of the accused which tend to prove that gambling activity was being conducted is admissible. The gathering and disclosure of such evidence, including the contents of the telephone messages received or overheard, does not violate any law of this State.

(c) It shall not be unlawful under this section for:

(1) An operator of a switchboard or an officer, agent or employee of a communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which is a necessary incident to the rendition of service or to the protection of the rights or property of the carrier of such communication. No communication common carrier shall utilize service observing or random monitoring except for mechanical or service quality control checks. It shall not be unlawful under this section for an officer, employee or agent of any communication common carrier to provide information, facilities or technical assistance to an investigative or law-enforcement officer who, pursuant to this section, is authorized, by the Superior Court, to intercept a wire or oral communication.

(2) A person acting under color of law to intercept a wire or oral communication, where such person is a party to the communication or 1 of the parties to the communication has given prior consent to such interception, unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of this State or for the purpose

of committing any other injurious act.

(d) Except as otherwise specifically provided in this section, any person who: (1) Wilfully possesses, sells, distributes, manufactures or assembles an intercepting device, the design of which renders it primarily useful for the purpose of the surreptitious interception of a wire or oral communication; or (2) wilfully places in any newspaper, magazine, handbill or other publication any advertisement of any intercepting device, the design of which renders it primarily useful for the purpose of the surreptitious interception of a wire or oral communication or of any intercepting device, where such advertisement promotes the use of such device for the purpose of the surreptitious interception of a wire or oral communication; shall be guilty of a class G felony.

(e) It shall not be unlawful under this section for: (1) A communication common carrier or an officer, agent or employee of, or a person under contract with, a communication common carrier, in the usual course of the communication common carrier's business; or (2) a person under contract with the United States, a state or a political subdivision thereof, or an officer, agent or employee of a state or a political subdivision thereof; to possess, sell, distribute, manufacture or assemble or advertise any intercepting device, while acting in furtherance of the appropriate activities of the United States, a state or political subdivision thereof or a communication common carrier.

(f) Any intercepting device possessed, used, sent, distributed, manufactured or assembled in violation of this section is hereby declared to be a nuisance and may be seized and forfeited to the State.

(g) The Attorney General may make application to a Judge designated to receive the same for an order authorizing or approving the interception of a wire or oral communication by the investigative or law-enforcement officers or agency having responsibility for an investigation when such interception may provide evidence of the commission of the offense of murder, kidnapping, gambling, robbery, bribery, extortion, dealing in narcotic drugs, dangerous drugs, central nervous system depressant or stimulant drugs, controlled substances or counterfeit controlled substances or any felony or any conspiracy to commit any of the foregoing offenses or which may provide evidence aiding in the apprehension of the perpetrator of any of the foregoing offenses.

(h) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation and shall state:

(1) The authority of the applicant to make such application;

(2) The identity of the investigative or law-enforcement officers or agency for whom the authority to intercept a wire or oral communication is sought and the identity of whoever authorized the application;

(3) A particular statement of the facts relied upon by the applicant, including:

a. The identity of the particular person, if known, committing the offense and whose communications are to be intercepted;

b. The details as to the particular offense that has been, is being or is about to be committed;

c. The particular type of communication to be intercepted;

d. The nature and location of the particular wire communication facilities involved or the particular place where the oral communication is to be intercepted;

e. A statement of the period of time for which the interception is required to be maintained, and if the character of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular statement of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

f. A full and complete statement as to whether or not other normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous to employ;

(4) Where the application is for the renewal or extension of an order, a particular statement of facts showing the results thus far obtained from the interception or a reasonable explanation of the failure to obtain such results;

(5) A statement of all previous applications, known to the individual authorizing and to the individual making the application, made to any court for authorization to intercept a wire or oral communication involving any of the same facilities or places specified in the application or involving any person whose communication is to be intercepted, and the action taken by the Court on each such application; and

(6) Such additional testimony or documentary evidence in support of the application as the Judge may require.

(i) Upon consideration of an application, the Judge may enter an ex parte order, as requested or as

modified, authorizing or approving the interception of wire or oral communications, if the Court determines on the basis of the facts submitted by the applicant that there is or was probable cause for belief that:

(1) The person whose communication is to be intercepted is engaging or was engaged over a period of time as a part of a continuing criminal activity or is committing, has or had committed or is about to commit an offense as provided in subsection (g) of this section;

(2) Particular communications concerning such offense may be obtained through such interception;

(3) Normal investigative procedures with respect to such offense have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous to employ; and

(4) The facilities from which, or the place where, the wire or oral communications are to be intercepted, are or have been used or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of or commonly used by, such person.

(j) If the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, or are leased to, listed in the name of or commonly used by an attorney-at-law, or practicing clergyman or is a place used primarily for habitation by a husband and wife, no order shall be issued unless the Court, in addition to the matters provided in subsection (i) of this section, determines that there is a special need to intercept wire or oral communications over such facilities or in such places. No otherwise privileged wire or oral communication intercepted in accordance with, or in violation of, this section shall lose its privileged character.

(k) (1) Each order authorizing or approving the interception of any wire or oral communication shall state:

(i) The Judge is authorized to issue the order;

(ii) The identity of, or a particular description of, the person, if known, whose communications are to be intercepted;

(iii) The nature and location of the communication facilities as to which, or the place of the communication as to which, authority to intercept is granted;

(iv) A particular description of the type of the communication to be intercepted and a statement of the particular offense to which it relates;

(v) The identity of the investigative or law-enforcement officers or agency to whom the authority to intercept a wire or oral communication is given and the identity of whoever authorized the application; and

(vi) The period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

(2) No order entered under this section shall authorize the interception of any wire or oral communication for a period of time longer than is necessary to achieve the objective of the authorization, nor in any event longer than 30 days. Every order entered under this section shall require that such interception begin and terminate as soon as practicable and may be conducted in such a manner as to minimize or eliminate the interception of such communications not otherwise subject to interception under this section. In no case shall an order entered under this section authorize the interception of wire or oral communications beyond the attainment of the authorized objective or in any event for any period exceeding 30 days. Extensions or renewals of such an order may not be granted unless an application for it is made in accordance with this section, and the Court makes the findings required by subsections (i) and (j) of this section and this subsection.

(3) Whenever an order authorizing an interception is entered, the order may require reports to be made to the Judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the Judge may require.

(4) An order authorizing the interception of a wire or oral communication shall, upon request of the applicant, direct that a communication common carrier, landlord, custodian or other person shall furnish the applicant forthwith all information, facilities and technical assistance necessary to accomplish the interception unobtrusively and with minimum of interference with the services that such carrier, landlord, custodian or other person is according the person whose communications are to be intercepted. Any communication common carrier, landlord, custodian or other person furnishing such facilities or technical assistance shall be compensated therefor by the applicant at the prevailing rates.

(l) (1) Whenever, upon informal application by an authorized applicant, any Judge of the Superior Court

determines there are grounds upon which an order could be issued pursuant to this section and that an emergency situation exists with respect to the investigation of conspiratorial activities of organized crime, related to an offense designated in subsection (g) of this section, dictating authorization for immediate interception of wire or oral communication before an application for an order could with due diligence be submitted and acted upon, the Judge may grant written approval for such interception without an order, conditioned upon the filing with the Judge, within 48 hours thereafter, of an application for an order which, if granted, shall recite the written approval and be retroactive to the time of such written approval. Such interception shall immediately terminate when the communication sought is obtained or when the application for an order is denied. In the event no application for an order is made, the content of any wire or oral communication intercepted shall be treated as having been obtained in violation of this section.

(2) In the event no application is made or an application made pursuant to this section is denied, the Court shall require the wire, tape or other recording of the intercepted communication to be delivered to, and sealed by, the Court and such evidence shall be retained by the Court in accordance with subsection (m) of this section and the same shall not be used or disclosed in any legal proceeding except in a civil action brought by an aggrieved person pursuant to subsection (w) of this section or as otherwise authorized by Court order. Failure to effect delivery of any such wire, tape or other recording shall be punishable as contempt by the Court directing such delivery. Evidence of written authorization to intercept an oral or wire communication shall be a defense to any charge against the investigating or law-enforcement officer for engaging in unlawful interception.

(m) (1) The contents of any wire or oral communication intercepted in accordance with this section shall, if practicable, be recorded by tape, wire or other comparable method. The recording shall be done in such a way as will protect it from editing or other alteration. Immediately upon the expiration of the order or extensions or renewals thereof, the tapes, wires or other recordings shall be transferred to the Judge issuing the order and sealed under the Judge's direction. Custody of the tapes, wires or other recordings shall be maintained wherever the Court directs. They shall not be destroyed except upon an order of such Court and in any event shall be kept for 10 years. Duplicate tapes, wires or other recordings may be made for disclosure or use pursuant to subsection (o) of this section. The presence of the seal provided by this section, or a satisfactory explanation for its absence, shall be a prerequisite for the disclosure of the contents of any wire or oral communication, or evidence derived therefrom, under subsection (p) of this section.

(2) Applications made and orders granted pursuant to this section and supporting papers shall be sealed by the Court and shall be held in custody as the Court shall direct and shall not be destroyed except on order of the Court and in any event shall be kept for 10 years. They may be disclosed only upon a showing of good cause before a court of competent jurisdiction.

(3) Any violation of this subsection may be punished as contempt of the issuing or denying Court.

(n) (1) Within a reasonable time but not later than 90 days after the termination of the period of the order or of extensions or renewals thereof, or the date of the denial of an order applied for under subsection (l) of this section, the issuing or denying Judge shall cause to be served on the person named in the order or application, and such other parties to the intercepted communications as the Judge may in the Judge's own discretion determine to be in the interest of justice, an inventory which shall include:

(i) Notice of the entry of the order or the application for an order denied under subsection (l) of this section;

(ii) The date of the entry of the order or the denial of an order applied for under subsection (l) of this section;

(iii) The period of authorized or disapproved interception; and

(iv) The fact that during the period wire or oral communications were or were not intercepted.

(2) The Court, upon the filing of a motion, may in its discretion make available to such person or the person's attorney for inspection such portions of the intercepted communications, applications and orders as the Court determines to be in the interest of justice. On an ex parte showing of good cause to the Court the serving of the inventory required by this subsection may be postponed.

(o) (1) Any investigative or law-enforcement officer who, by any means authorized by this section, has obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may disclose such contents or evidence to another investigative or law-enforcement officer to the extent that such disclosure or use is appropriate to the proper performance of official duties.

(2) Any investigative or law-enforcement officer who, by any means authorized by this section, has

obtained knowledge of the contents of any wire or oral communications or evidence derived therefrom may use such contents to the extent such use is appropriate to the performance of official duties.

(p) Any person who, by any means authorized by this section, has obtained any information concerning any wire or oral communication or evidence derived therefrom intercepted in accordance with this section may disclose the contents of such communication or derivative evidence while giving testimony under oath or affirmation in any criminal proceeding in any court of this or another state or of the United States or before any federal or state grand jury.

(q) When an investigative or law-enforcement officer, while engaged in intercepting wire or oral communications in the manner authorized herein, intercepts wire or oral communications relating to offenses other than those specified in the order or authorization, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsection (o) of this section. Such contents and any evidence derived therefrom may be used under subsection (p) of this section when authorized or approved by a Judge of competent jurisdiction where such Judge finds on subsequent application that the contents were otherwise intercepted in accordance with this section. Such application shall be made as soon as practicable.

(r) Except as specifically authorized pursuant to this section, any person who uses or discloses the existence of an order authorizing interception of a wire or oral communication or the contents of, or information concerning, an intercepted wire or oral communication or evidence derived therefrom shall be guilty of a class A misdemeanor.

(s) The contents of any wire or oral communication intercepted in accordance with this section, or evidence derived therefrom, shall not be disclosed in any trial, hearing or proceeding before any court of this State unless not less than 10 days before the trial, hearing or proceeding the parties to the action have been served with a copy of the order and accompanying application under which the interception was authorized. This 10-day period may be waived by the Judge if the Judge finds that it was not possible to furnish the party with the above information 10 days before the trial, hearing or proceeding, and that the party will not be prejudiced by the failure to make the service.

(t) (1) Any aggrieved person in any trial, hearing or proceeding in or before any court or other authority of this State or political subdivision thereof may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that:

- (i) The communication was unlawfully intercepted;
- (ii) The order of authorization is insufficient on its face;
- (iii) The interception was not made in conformity with the order of authorization.

(2) The motion shall be made at least 10 days before the trial, hearing or proceeding unless there was no opportunity to make the motion or the moving party was not aware of the grounds for the motion. The court, upon the filing of such motion by the aggrieved person, may in its discretion make available to the aggrieved person or the person's counsel for inspection such portions of the intercepted communication, or evidence derived therefrom, as the court determines to be in the interests of justice. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall not be received in evidence in the trial, hearing or proceeding, and shall be treated as having been obtained in violation of this section.

(3) In addition to any other right to appeal, the State shall have the right to appeal from an order granting a motion to suppress if the official to whom the order authorizing the interception was granted shall certify to the court that the appeal is not taken for purposes of delay. The appeal shall be taken within the time specified by the rules of court and shall be diligently prosecuted.

(u) Within 30 days after the expiration of an order or an extension or renewal thereof entered under this section or the denial of an order confirming verbal approval of interception, the issuing or denying Judge shall make a report to the President Judge of the Superior Court stating that:

- (1) An order, extension or renewal was applied for;
- (2) The kind of order applied for;
- (3) The order was granted as applied for, was modified or was denied;
- (4) The period of the interceptions authorized by the order, and the number and duration of any extensions or renewals of the order;
- (5) The offense specified in the order or extension or renewal of an order;
- (6) The identity of the person authorizing the application and of the investigative or law-enforcement officer and agency for whom it was made; and
- (7) The character of the facilities from which or the place where the communications were to be

intercepted.

(v) The Attorney General, or Deputy Attorney General specifically designated by the Attorney General, shall make and file all reports required by federal law.

(w) (1) Any person whose wire or oral communication is intercepted, disclosed or used in violation of this section shall have a civil cause of action against any person who intercepts, discloses or uses or procures any other person to intercept, disclose or use such communication, and shall be entitled to recover from any such person:

(i) Actual damages, but not less than liquidated damages computed at the rate of \$100 a day for each day of violation, or \$1,000, whichever is higher;

(ii) Punitive damages; and

(iii) A reasonable attorney's fee and other litigation costs reasonably incurred.

(2) A good-faith reliance on a Court order authorizing the interception shall constitute a complete defense to a civil or criminal action brought under this section or to administrative proceedings brought against a law-enforcement officer.

(x) (1) The Superior Court shall have the power to issue orders authorizing the installation and use of a pen register device or touch-tone decoder. Such order shall be issued when the Court is satisfied that an investigative or law-enforcement agency requesting the order is engaged in an investigation of possible criminal activity within the jurisdiction of the agency and that the requested pen register or touch-tone decoder is reasonably calculated to further the investigation.

(2) An order authorizing the installation and use of a pen register shall, upon request of the applicant, direct that a communication carrier, landlord, custodian or other person shall furnish the applicant forthwith all information, facilities and technical assistance necessary to accomplish the interception unobtrusively and with minimum of interference with the services that such carrier, landlord, custodian or other person is according the person whose communications are to be intercepted. Also any communication carrier, landlord, custodian or other person furnishing such facilities or technical assistance shall be compensated therefore by the applicant at the prevailing rates.

(y) (1) The Superior Court shall have the power to make rules to carry this section into effect.

(2) The Superior Court shall have exclusive original jurisdiction of any criminal violations of this section.

(11 Del. C. 1953, § 1366; 49 Del. Laws, c. 220, § 34; 58 Del. Laws, c. 333, § 1; 58 Del. Laws, c. 497, § 3; 59 Del. Laws, c. 203, §§ 28-30; 59 Del. Laws, c. 547, §§ 9-11; 63 Del. Laws, c. 94, § 1; 67 Del. Laws, c. 130, § 8; 67 Del. Laws, c. 350, §§ 8-10; 70 Del. Laws, c. 186, § 1.)

SUBPART D. OFFENSES INVOLVING GAMBLING

§ 1401. Advancing gambling in the second degree; class A misdemeanor.

A person is guilty of advancing gambling in the second degree when:

(1) The person sells or disposes of, or has in the person's possession with intent to sell or dispose of, a lottery policy, certificate or any other thing by which the person or another person or persons promises or promise, guarantees or guarantee that any particular number, series of numbers, character, ticket or certificate shall, in the event or on the happening of any contingency in the nature of a lottery, entitle the purchaser or holder to receive money, property or evidence of debt;

or

(2) The person uses or employs any other device by which such person, or any other person, promises or guarantees as provided in subdivision (1) of this section; or

(3) The person is concerned in interest in lottery policy writing, or in selling or disposing of any lottery policy, certificate, number or numbers or any other thing by which the person or another person or persons promises or promise, guarantees or guarantee that any particular number or numbers, character, ticket or certificate shall, in the event or on the happening of any contingency in the nature of a lottery, entitle the purchaser or holder to receive money, property or evidence of debt; or

(4) The person uses or employs any other device by which such person or any other person

promises or guarantees as provided in subdivision (3) of this section.
Advancing gambling in the second degree is a class A misdemeanor.

(11 Del. C. 1953, § 1401; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1.)

§ 1402. Foreign lotteries; prima facie evidence; class A misdemeanor.

(a) A person is guilty of engaging in a foreign lottery when the person brings, sends or procures to be brought or sent into this State any scheme of any lottery or any drawing of any such scheme or any ticket or part of a ticket or certificate of or a substitute for any ticket or part of a ticket, and sells or offers for sale any such ticket or part of ticket or any certificate or substitute for a certificate, and circulates in any manner any scheme or any drawing.

(b) On the trial of any person under subsection (a) of this section any lottery scheme drawing, ticket, certificate of or a substitute for a ticket or parts of tickets, which shall be proved to have been by the accused brought or procured to be brought, or sent or procured to be sent into this State or printed or procured to be printed within this State, for the purpose of circulating the same by mail or otherwise, shall be prima facie evidence within the description of this section.

(c) Engaging in foreign lotteries is a class A misdemeanor.

(11 Del. C. 1953, § 1402; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1.)

§ 1403. Advancing gambling in the first degree; class A misdemeanor.

A person is guilty of advancing gambling in the first degree when:

(1) The person keeps, exhibits or uses, or is concerned in interest in keeping, exhibiting or using any book, device, apparatus or paraphernalia for the purpose of receiving, recording or registering bets or wagers upon the result of any trial or contest, wherever conducted, of skill, speed or power of endurance of human or beast; or

(2) Being the owner, lessee or occupant of a room, house, building, enclosure or place of any kind, the person keeps, exhibits, uses or employs therein or permits or allows to be kept, exhibited, used or employed therein, or is concerned in interest in keeping, exhibiting, using or employing therein any book, device, apparatus or paraphernalia for the purpose of receiving, recording or registering bets or wagers as provided in subdivision (1) of this section, or of forwarding in any manner money, thing or consideration of value for the purpose of being bet or wagered as provided in subdivision (1) of this section; or

(3) The person records or registers bets or wagers, or receives, contracts or agrees to receive money or anything of value for the purpose or with the intent to bet or wager personally or for another person as provided in subdivision (1) of this section; or

(4) The person directly or indirectly bets or wagers, or promises to bet or wager, money or anything of value as provided in subdivision (1) of this section.

This section does not apply to a bet or wager made on a horse race within the enclosure of any race meeting licensed and conducted under the laws of this State, and made by or through the means of a pari-mutuel or totalizator pool, the conduct of which is licensed by the Delaware Racing Commission or other state licensing agency. Such exception need not be negated in any indictment or information.

Advancing gambling in the first degree is a class A misdemeanor.

(11 Del. C. 1953, § 1403; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1.)

§ 1404. Providing premises for gambling; class A misdemeanor; unclassified misdemeanor.

A person is guilty of providing premises for gambling when:

- (1) The person lets, demises or transfers to another person any building, structure, room or rooms knowing that the same will be used for the purpose of committing any gambling offense; or
- (2) The person knowingly permits any house, structure, building, room or rooms of which the person has possession or control to be used for the purpose of committing any gambling offense; or
- (3) The person contributes to the support and maintenance of any house or place where gambling is carried on or conducted; or
- (4) The person keeps or maintains any house or place where gambling is carried on.

Providing premises for gambling or contributing thereto is an unclassified misdemeanor, unless the accused has been convicted, within the previous 5 years, of the same offense or of an offense under § 663 or 665 of this title as the same existed prior to July 1, 1973, in which case it is a class A misdemeanor.

(11 Del. C. 1953, § 1404; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1.)

§ 1405. Possessing a gambling device; class A misdemeanor.

(a) A person is guilty of possessing a gambling device when the person knowingly manufactures, sells, transports, keeps, exhibits, manages, places, possesses or conducts or negotiates any transaction affecting or designed to effect ownership, custody or use of a slot machine or any other gambling device.

(b) Possessing a gambling device is a class A misdemeanor.

(c) A person is not guilty of a violation of this section if the device or machine is either:

- (1) An antique slot machine which is not used for gambling purposes; or
- (2) Any slot machine or gambling device which is manufactured (including, without limitation, the retrofitting or alteration of a finished machine or device), assembled, transported, kept, exhibited, managed, placed or possessed by a person within this State or which is the subject of any negotiation which involves a transaction affecting or designed to affect the ownership, custody or use of such machine or device by such person in this State where:
 - a. Such person is duly licensed to conduct a manufacturing or other business in this State; and
 - b. Such person is registered in accordance with the federal Gambling Devices Act of 1962 as amended (15 U.S.C. § 1171 et seq.) and is in the business of designing, assembling, manufacturing, selling, supplying, repairing or retrofitting slot machines, gambling devices or component parts thereof exclusively for lawful possession and use.

(d) For purposes of this section, a slot machine is an antique machine if such machine is at least 25 years old.

(e) For purposes of this section, a "video lottery machine," as defined in § 4803(g) of Title 29, which is owned or leased by the State for use in the Delaware video lottery shall not constitute either a slot machine or a gaming device.

(11 Del. C. 1953, § 1405; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 68 Del. Laws,

c. 252, § 1; 69 Del. Laws, c. 375, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 421, §§ 1, 2.)

§ 1406. Being concerned in interest in keeping any gambling device; class A misdemeanor.

(a) A person is guilty of being concerned in interest in keeping any gambling device when:

(1) The person keeps or exhibits a gaming table, faro bank, sweat cloth, roulette table or other device under any denomination at which cards, dice or any other game of chance is played for money, or other thing of value or other gambling device of any kind whatsoever; or

(2) The person, with the intent that it shall be kept or exhibited for use by the public, buys, sells or distributes a gaming table, faro bank, sweat cloth or other gambling device; or

(3) The person is a partner or concerned in interest in the keeping or exhibiting of a gaming table, faro bank, sweat cloth or other gambling device.

(b) Being concerned in interest in keeping any gambling device is a class A misdemeanor.

(c) An antique slot machine, as defined in § 1405 of this title, is not a gambling device for purposes of this section.

(11 Del. C. 1953, § 1406; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 68 Del. Laws, c. 252, § 2; 70 Del. Laws, c. 186, § 1.)

§ 1407. Engaging in a crap game; violation.

A person is guilty of engaging in a crap game when the person takes part in or is knowingly present at the form of gambling commonly known as crap, in which money or other valuable things are played for by means of dice.

Engaging in a crap game is a violation.

(11 Del. C. 1953, § 1407; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1.)

§ 1408. Merchandising plans are not gambling.

Sections 1401-1405 of this title are inapplicable to any plan for stimulating public interest in, or sale of, merchandise, services or exhibitions unless the plan requires that the chance to win a prize be paid for in money or something of actual pecuniary value or that some items be bought or to any lottery under state control for the purpose of raising funds.

(11 Del. C. 1953, § 1408; 58 Del. Laws, c. 497, § 1; 59 Del. Laws, c. 364, § 1.)

§ 1409. Exemption of law-enforcement officer.

Nothing in subpart D of subchapter VII of this chapter shall apply to any law-enforcement officer or officer's agent while acting in the lawful performance of duty.

(11 Del. C. 1953, § 1409; 58 Del. Laws, c. 497, § 1; 70 Del. Laws, c. 186, § 1.)

§ 1411. Unlawfully disseminating gambling information; class A misdemeanor.

A person is guilty of unlawfully disseminating gambling information when:

- (1) Being a public utility it knowingly furnishes to another person a private wire for use in disseminating information in furtherance of gambling or for gambling purposes; or
- (2) The person knowingly uses a private wire in disseminating or receiving information in furtherance of gambling or for gambling purposes; or
- (3) The person engages in the business of or receives compensation in any form for disseminating or receiving information in furtherance of gambling or for gambling purposes by means of a private wire or a call service.

Unlawfully disseminating gambling information is a class A misdemeanor.

(11 Del. C. 1953, § 1411; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1.)

§ 1412. Revocation of service contracts or denial of application for service; exemption from liability.

- (a) The Attorney General, if the Attorney General has reasonable cause to believe that any service furnished by a public utility is being used or will be used to disseminate information in furtherance of gambling or for gambling purposes, may give notice to the person who has contracted with or is applying to the public utility for such service that the Attorney General intends to seek a court order that the service contract be revoked or the application for service be denied.
- (b) The notice permitted in subsection (a) of this section shall be served personally upon the person who has contracted with or is applying to the public utility for the service. If personal service is not reasonably possible, the notice may be posted in a conspicuous place on the premises to which the service is furnished. The notice shall specify the time and place where the hearing will be held, and the court before which it will be held.
- (c) A hearing shall be held in the Superior Court at the time specified in the notice. At the hearing, evidence bearing on the use of the public utility service in question may be presented by the State and by or on behalf of the person who has contracted for or is applying for the service.
- (d) If the Court, after hearing, determines that there is probable cause to believe that the service furnished by the public utility is being used or will be used to disseminate information in furtherance of gambling or for gambling purposes, it shall order that the contract to furnish the service be revoked or that the application for service be denied.
- (e) No public utility shall be held liable at law or in equity for revocation of a contract, or denying an application for service, when ordered to do so as provided by this section.

(11 Del. C. 1953, § 1412; 58 Del. Laws, c. 497, § 1; 70 Del. Laws, c. 186, § 1.)

§ 1421. Obstructions; service of notice.

If the Attorney General finds that access to a building, apartment or place, which the Attorney

General has reasonable cause to believe is resorted to for the purpose of gambling in violation of the laws of this State, is barred by an obstruction, the Attorney General shall cause to be served in the manner provided by law for service of civil summons upon the occupant or owner a notice to appear before the Superior Court and to show cause why the unusual obstructions should not be removed.

(11 Del. C. 1953, § 1421; 58 Del. Laws, c. 497, § 1; 70 Del. Laws, c. 186, § 1.)

§ 1422. Posting of notice.

If the occupant or owner cannot be found, the prescribed notice shall be posted upon the outside of the premises.

(11 Del. C. 1953, § 1422; 58 Del. Laws, c. 497, § 1.)

§ 1423. Contents of notice.

The notice which is served personally upon the occupant or owner or is posted upon the outside of the premises shall in all cases designate the name of the Court in which the rule will be heard, and shall further contain the time and the date upon which the rule will be brought on for hearing.

(11 Del. C. 1953, § 1423; 58 Del. Laws, c. 497, § 1.)

§ 1424. Hearing.

At the time stated in the notice, a hearing shall be held in the Superior Court. At the hearing, evidence bearing on the matter may be presented by the State and by or on behalf of the person served with the notice or alleged to be the occupant or owner of the premises. The Court may grant a continuance if it is reasonably necessary in order that all relevant evidence may be heard.

(11 Del. C. 1953, § 1424; 58 Del. Laws, c. 497, § 1.)

§ 1425. Findings of Court; order for removal.

If the Court, after a hearing upon the requisite matters, finds that there is reasonable cause to believe that the premises are resorted to for the purpose of gambling and that access is barred by an obstruction, the Court shall order the occupant or owner to remove the obstruction.

(11 Del. C. 1953, § 1425; 58 Del. Laws, c. 497, § 1; 59 Del. Laws, c. 203, §§ 26, 31.)

§ 1426. Official removal upon noncompliance with removal order.

In the event that the obstructions are not removed within a period of 7 days after the order for removal, the Attorney General shall cause the obstructions to be removed from the premises or place.

(11 Del. C. 1953, § 1426; 58 Del. Laws, c. 497, § 1.)

§ 1427. Collection of removal expenses; status of contractor; amount of lien.

The expenses of a removal under § 1426 of this title shall be collected by the Attorney General in the manner provided by law for the filing and collection of a mechanic's lien.

(11 Del. C. 1953, § 1427; 58 Del. Laws, c. 497, § 1.)

§ 1428. Maintaining an obstruction; class A misdemeanor; a violation.

A person is guilty of maintaining an obstruction when, being the owner or occupant of a building or other place from which an obstruction has been removed as provided in §§ 1421-1427 of this title, the person again erects or permits the erection of an obstruction.

Maintaining an obstruction is a violation unless the accused has been convicted of the same offense within the previous 2 years, in which case it is a class A misdemeanor. The section does not limit the power of the State to seek the removal of the obstruction as provided in §§ 1421-1427 of this title.

11 Del. C. 1953, § 1428; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1.)

§ 1431. Telephone messages received or overheard by police as evidence.

In any prosecution for a gambling offense, evidence that a police officer, when making an arrest for a gambling offense, received or overheard telephone messages intended for the accused or an associate of the accused which tend to prove that gambling activity was being conducted is admissible. The gathering and disclosure of such evidence, including the contents of the telephone messages received or overheard, does not violate any law of this State.

(11 Del. C. 1953, § 1431; 58 Del. Laws, c. 497, § 1.)

§ 1432. Gambling; definitions.

(a) "Gambling device" means any device, machine, paraphernalia or equipment which is used or usable in the playing phases of any gambling activity, whether the activity consists of gambling between persons or gambling by a person involving the playing of a machine. Lottery tickets, policy

slips and other items used in the playing phases of lottery and policy schemes are not gambling devices.

(b) "Slot machine" means a gambling device which, as a result of the insertion of a coin or other object, operates, either completely automatically or with the aid of a physical act by the player, in such manner that, depending upon elements of chance, it may eject something of value.

(c) "Gambling offense" means any offense defined in §§ 1401-1431 of this title.

(d) "Call service" means the furnishing of information upon request therefor or by prearrangement over general telegraphic, telephonic or teletypewriter exchange or toll service.

(e) "Dissemination" means the act of transmitting, distributing, advising, spreading, communicating, conveying or making known.

(f) "Private wire" means service equipment, facilities, conduits, poles, wires, circuits, systems by means of which service is furnished for communication purposes, either through the medium of telephone, telegraph, Morse, teletypewriter, loudspeaker or any other means, or by which the voice or electrical impulses are sent over a wire, and which services are contracted for or leased for services between 2 or more points specifically designated, and are not connected to or available for general telegraphic, telephonic or teletypewriter exchange or toll service, and includes such services known as "special contract leased wire service," "leased line," "private line," "private system," "Morse line," "private wire," but does not include the usual and customary telephone or teletypewriter service by which the subscriber may be connected at each separate call to any other telephone or teletypewriter designated by the subscriber only through the general telephone or teletypewriter exchange system or toll service.

(g) "Public utility" means a person, partnership, association or corporation owning or operating in this State equipment or facilities for conveying or transmitting messages or communications by telephone or telegraph to the public for compensation.

(h) "Obstruction" means a door, window, shutter, screen bar or grating of unusual strength, or any unnecessary number of doors, windows or obstructions other than what is usual and ordinary in the normal or usual use of a building, apartment or place, by which access to any building, apartment or place is barred.

(11 Del. C. 1953, § 1432; 58 Del. Laws, c. 497, § 1; 70 Del. Laws, c. 186, § 1.)

CHAPTER 15. ORGANIZED CRIME AND RACKETEERING

Sec.

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CHAPTER 15. ORGANIZED CRIME AND RACKETEERING

§ 1501. Statement of purpose.

The purpose of this chapter is to guard against and prevent the infiltration and illegal acquisition of legitimate economic enterprises by racketeering practices, and the use and exploitation of both legal and illegal enterprises to further criminal activities. This chapter is intended to apply to conduct beyond what is traditionally regarded as "organized crime" or "racketeering."

(65 Del. Laws, c. 493, § 1.)

§ 1502. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) a. "Beneficial interest" shall include any of the following:

1. The interests of a person as a beneficiary under any trust arrangement under which a trustee holds legal or record title to personal or real property; or
2. The interests of a person, under any other form of express fiduciary arrangement, pursuant to which any other person holds legal or record title to personal or real property for the benefit of such person.

b. The term "beneficial interest" shall not include the interest of a stockholder in a corporation, or the interest of a partner in either a general partnership or a limited partnership.

(2) "Documentary materials" shall mean any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, and any data compilation from which information can be obtained or from which information can be translated into useable form, or other tangible item.

(3) "Enterprise" shall include any individual, sole proprietorship, partnership, corporation, trust or other legal entity; and any union, association or group of persons associated in fact, although not a legal entity. The word "enterprise" shall include illicit as well as licit enterprises,

and governmental as well as other entities.

(4) "Foreign corporation" shall have the same definition as is set forth in § 371 of Title 8.

(5) "Pattern of racketeering activity" shall mean 2 or more incidents of conduct:

a. That:

1. Constitute racketeering activity;
2. Are related to the affairs of the enterprise;
3. Are not so closely related to each other and connected in point of time and place that they constitute a single event; and

b. Where:

1. At least 1 of the incidents of conduct occurred after July 9, 1986;
2. The last incident of conduct occurred within 10 years after a prior occasion of conduct; and
3. As to criminal charges, but not as to civil proceedings, at least 1 of the incidents of conduct constituted a felony under the Delaware Criminal Code, or if committed subject to the jurisdiction of the United States or any state of the United States, would constitute a felony under the Delaware Criminal Code if committed in the State.

(6) "Pecuniary value" shall mean:

- a. Anything of value in the form of money, a negotiable instrument, a commercial interest or anything else which constitutes an economic advantage; or
- b. Any other property or service that has a value in excess of \$100.

(7) "Personal property" shall include any personal property or any interest in such personal property, or any right, including bank accounts, debts, corporate stocks, patents or copyrights. An item of personal property or a beneficial interest in personal property shall be deemed to be located where the trustee is, where the personal property is or where the instrument evidencing the right is.

(8) "Principal" shall mean a person who engages in conduct constituting a violation, or one who is legally accountable for the unlawful conduct of another person or entity.

(9) "Racketeering" shall mean to engage in, to attempt to engage in, to conspire to engage in or to solicit, coerce or intimidate another person to engage in:

a. Any activity defined as "racketeering activity" under 18 U.S.C. § 1961(1)(A), (B), (C) or (D); or

b. Any activity constituting any felony which is chargeable under the Delaware Code or any activity constituting a misdemeanor under the following provisions of the Delaware Code:

1. Chapter 53 of Title 30 relating to evasion of payment of cigarette taxes;
2. Chapter 73 of Title 6 relating to the sale of securities;
3. Chapter 5 of Title 11 relating to prostitution;
4. Chapter 5 of Title 11 and Title 6 relating to forgery and counterfeiting;
5. Chapter 5 of Title 11 relating to perjury;
6. Chapter 5 of Title 11 and Title 28 relating to bribery and misuse of public office and improper influence;
7. Chapter 5 of Title 11 relating to obscenity;
8. Chapter 5 of Title 11 and Title 28 relating to gambling;
9. Title 11 and Title 16 relating to drug abuse, prevention and control;
10. Chapter 5 of Title 11 relating to tampering with jurors, evidence and witnesses; or
11. Chapter 51 of Title 30 relating to motor fuel tax offenses.

(10) "Real property" shall mean any real property situated in this State or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

(11) a. "Trustee" shall include:

1. Any person acting as trustee under a trust in which the trustee holds legal or record title to personal or real property; or
2. Any person who holds legal or record title to personal or real property, for which any other person has a beneficial interest; or
3. Any successor trustee.

b. The term "trustee" shall not include an assignee or trustee for an insolvent debtor, nor an executor, administrator, administrator with will annexed, testamentary trustee, conservator,

guardian or committee appointed by, under the control of, or accountable to, a court.
(12) "Unlawful debt" shall mean a debt incurred or contracted in an illegal gambling activity or business; or a debt which is unenforceable under state law, in whole or in part, as to either principal or interest.

(65 Del. Laws, c. 493, § 1.)

PART II. CRIMINAL PROCEDURE GENERALLY
CHAPTER 41. FINES, COSTS, PENALTIES AND FORFEITURES
SUBCHAPTER II. SPECIAL LAW ENFORCEMENT ASSISTANCE FUND

§ 4110. Purpose; created.

The General Assembly hereby declares that in order to provide funds to combat organized crime, especially with respect to the unlawful trafficking in controlled substances, unlawful gambling activities and unlawful pornographic and prostitution-related activities, it is necessary to establish a fund for the use of law-enforcement agencies in the State. This special fund is hereby created and shall be known as the "Special Law Enforcement Assistance Fund."

(63 Del. Laws, c. 140, § 1.)

§ 4114. Accounting of funds; permissible types of investigative activities.

(a) Funds obtained by law-enforcement agencies pursuant to this subchapter shall be used only for the purposes set out in subsection (b) of this section. Each agency receiving any such funds during any fiscal year shall render on or before June 30 of each year a full and complete accounting for the use of such funds to the Attorney General, who shall attain such accountings for inspection by the State Auditor. Any special law-enforcement assistance funds which are in the hands of any agency and which are not fully expended by the end of the fiscal year must then be returned by the agency to the Fund unless the agency has requested and has received an authorization in writing for an extension of up to 120 days by the Attorney General.

(b) Funds from the Special Law Enforcement Assistance Fund may be used for the following types of investigative activities:

- (1) Payment of informant money;
- (2) Payment for the purchase by undercover agents of unlawful substances, such as but not limited to counterfeit or real controlled substances, pornographic materials, stolen property or other contraband;
- (3) Use as gambling front money by undercover agents;
- (4) Payment of overtime to Delaware state or local law-enforcement officers or auditors from the Office of Auditor of Accounts when engaged in special or extraordinary investigations of organized criminal activity.

(63 Del. Laws, c. 140, § 1.)

PART IV. PRISONS AND PRISONERS
CHAPTER 65. DEPARTMENT OF CORRECTION
SUBCHAPTER VIII. GENERAL PROVISIONS

§ 6562B. Confiscated Contraband Interdiction Fund.

The General Assembly hereby declares that in order to provide funds to combat the unlawful trafficking of drugs, unlawful gambling activities and gang activities within the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center, it is necessary to create a separate special fund at each of the 3 institutions. All monies collected as contraband from the inmate population at each of the 3 institutions shall be set aside into a special fund. Each special fund set up at the 3 institutions is hereby created and shall be known as the Confiscated Contraband Interdiction Fund.

(1) Use of funds. The use of the money from this special fund must be for the purpose declared herein as such requires the use of United States currency for the purchase, training and maintenance of the Canine Unit at the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center and the purchase of equipment used in the investigation of crimes committed within the Delaware Correctional Center.

(2) Creation of fund. Upon the confiscation of any moneys as a result of shakedowns and other security investigations, the same shall be paid over to the support services manager at the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center to be placed in the special fund.

(3) Disbursement of fund. The disbursement of the funds from this account shall be made by the support services manager upon approval by the wardens of the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center. All requests for funds must be by written application and on a form designed for such purpose. This application and authorization form must include the following:

- a. The amount of funds requested;
- b. The anticipated purpose for which such funds are requested;
- c. The name of the person requesting the funds and the name of the person who shall be responsible for keeping accurate records as to the use of the funds.

The wardens of the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center shall determine whether or not the expressed purpose for the expenditure requested is within the proposes allowed under this section and, further, whether the proposed expenditure of funds for the expressed purpose will be in the best interests for each of the 3 institutions. If the warden at each institution determines that the proposed expenditure meets those criteria, the warden may authorize the expenditure in whole or in part and only then shall the funds be expended as requested.

(4) Accounting of funds. Funds obtained by the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center pursuant to this subchapter shall be used only for the purposes set out in subdivision (1) of this section. Any and all funds shall be accounted for by the support services manager on or before June 30 of each year. The administrative officer shall submit a full and complete accounting for the use of such funds to the warden at each of the institutions.

- a. Funds from the special fund may be used for the following:
 1. Purchase of K-9 dogs.
 2. Equipment for the maintenance of the Canine Unit.
 3. Equipment needed to investigate criminal activities at the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center.
 4. Medical expenses for the animals in the Canine Unit.
 5. Purchases made by the institutional investigator in the pursuance of an investigation into contraband, the introduction of contraband into the Multi-Purpose Criminal Justice Facility,

the Sussex Correctional Institution and the Delaware Correctional Center and gang-related activities.

(5) Review of records. Any funds requested and disbursed shall be accounted for through an itemized report due no later than July 31 of each year from the support services manager to each of the wardens at the 3 institutions from the prior fiscal year.

(6) Excess funds. If at any time the funds aggregated in the special fund exceeds \$10,000, the excess shall be deposited in the General Fund.

(71 Del. Laws, c. 100, § 1.)

TITLE 13. DOMESTIC RELATIONS

CHAPTER 22. DIVISION OF CHILD SUPPORT ENFORCEMENT

§ 2214. Collection and use of Social Security numbers.

(a) The Division of Child Support Enforcement shall have access to the social security number of:

- (1) Any applicant for a license as that has been defined in this section;
- (2) Any applicant for a marriage license;
- (3) Any individual who is subject to a divorce decree, support order or judgment, paternity order, or an acknowledgment of paternity filed in this State pursuant to § 804 of Title 13 or §§ 3105 and 3121 of Title 16;
- (4) Any individual who has died; and
- (5) Any individual who is a petitioner or respondent in a paternity or child support proceeding filed in this State or in an interstate action in which this State serves as the initiating or responding jurisdiction.

(b) Social security numbers collected pursuant to subsection (a) of this section shall be maintained in the records of the collecting agency. In the case of individuals who have died, the Social Security number also shall appear on the face of the death certificate.

(c) As used in this section, the term "license" means a commercial driver's license or license to operate a motor vehicle issued or renewed under Chapter 26 or 27 of Title 21, and a license, permit, certificate, approval, registration or other similar form of permission or authorization to practice or engage in any profession, occupation or business issued or renewed by the Division of Revenue under Chapter 23, 25, 27 or 29 of Title 30, or by any commission, board or agency under the authority of the Division of Professional Regulation which is named in § 8810 of Title 29 (but not including any license issued on behalf of a nonprofit applicant by the Gaming Control Board as set forth in Chapter 15 of Title 28).

(d) Upon request, the Division of Child Support Enforcement shall make available locator information, as provided in subsection (a) of this section, for use by federal and state agencies conducting activities pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.). The Division may respond to a request for information made under this section by any appropriate method including, but not limited to, paper, facsimile, telephone, magnetic tape or other electronic means.

(e) If a tribunal or agency also uses an identifying number other than the Social Security number, the tribunal or agency must so advise parties or applicants.

(f) The Director of the Division of Child Support Enforcement shall be responsible for the preparation of policy, procedures, and directives as may be required to implement this section.

(71 Del. Laws, c. 216, § 1.)

§ 2216. Driver's, professional, occupational and business and recreational licenses.

(a) As used in this section and in § 516(g) of this title, the term "license" means a commercial driver license or license to operate a motor vehicle issued or renewed under Chapter 26 or 27 of Title 21, a hunting, fishing or trapping license issued or renewed under Chapter 5 of Title 7, and a license, permit, certificate, approval, registration or other similar form of permission or authorization to practice or engage in any profession, occupation or business, issued or renewed by the Division of Revenue under Chapter 23, 25, 27 or 29 of Title 30, or by any commission, board or agency under the authority of the Division of Professional Regulation which is named in § 8810 of Title 29 (but not including any license issued on behalf of a non-profit applicant by the Gaming Control Board as set forth in Chapter 15 of Title 28).

(b) In order to provide for the denial or suspension of licenses to delinquent child support obligors, the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and the Director of the Division of Professional Regulation shall each enter into a cooperative agreement with the Director of the Division of Child Support Enforcement to make available or otherwise provide to the Director of the Division of Child Support Enforcement information regarding any person who applies for or holds a license issued or renewed by their respective divisions. The specific information and the manner and frequency with which it is made available or otherwise provided to the Division of Child Support Enforcement shall be as determined by each cooperative agreement, but such information shall be made available or otherwise provided at least once each calendar year. Each cooperative agreement shall be revised as necessary to effectuate the provisions and purposes of this section. From such information provided by the Division of Motor Vehicles, the Division of Revenue, the Division of Fish and Wildlife and the Division of Professional Regulation, the Division of Child Support Enforcement, at such intervals as it determines, may identify such applicants or licensees who are delinquent child support obligors as described in this section, and undertake enforcement action pursuant to this section.

(c) Subject to the notice and hearing provisions of this section, the Director of the Division of Child Support Enforcement may give notice that a license shall not be issued or renewed by the Division of Motor Vehicles, the Division of Revenue, the Division of Fish and Wildlife or by any commission, board or agency under the authority of the Division of Professional Regulation which is named in § 8810 of Title 29 if:

(1) The applicant is the subject of an outstanding capias or bench warrant issued by the Family Court for failure to appear at any paternity or child support proceeding in a case enforced by the Division of Child Support Enforcement pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651, et seq.); or

(2) The applicant is under an order of the Family Court to pay child support in a case enforced by the Division of Child Support Enforcement pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651, et seq.), owes \$1,000.00 or more in arrears or retroactive support, and is 30 or more days delinquent in payment of the support order.

(d) Subject to the notice and hearing provisions of this section, the Director of the Division of Child Support Enforcement may give notice that a license issued by the Division of Motor Vehicles, the Division of Revenue, the Division of Fish and Wildlife or by any commission, board or agency under the authority of the Division of Professional Regulation which is named in § 8810 of Title 29 shall be suspended if:

(1) The licensee is the subject of an outstanding capias or bench warrant issued by the Family Court for failure to appear at any paternity or child support proceeding in a case enforced by the Division of Child Support Enforcement pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651, et seq.); or

(2) The licensee is under an order of the Family Court to pay child support in a case enforced by the Division of Child Support Enforcement pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), owes \$1,000.00 or more in arrears or retroactive

support, and is 30 or more days delinquent in payment of the support order.

(e) The Director of the Division of Child Support Enforcement shall give written notice of the proposed denial or suspension of a license to the obligor, together with the amount of arrears or retroactive support and the date of the last payment on the child support order. The denial or suspension of the license becomes effective upon final written notice to the obligor from the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation unless, within 20 days of the date the notice of proposed denial or suspension is mailed by the Director of the Division of Child Support Enforcement, the obligor:

- (1) Requests in writing an administrative hearing before the Director of the Division of Child Support Enforcement or his or her designee;
- (2) Pays the arrears or retroactive support in full;
- (3) Surrenders to the Family Court on any outstanding capias or bench warrant and pays any arrears or retroactive support in full; or
- (4) Consents to a payment plan acceptable to the Director of the Division of Child Support Enforcement or his or her designee, and fully complies therewith.

(f) The Director of the Division of Child Support Enforcement or his or her designee shall convene a hearing within 30 days after receipt of the obligor's timely written request, and shall issue a written decision within 5 working days after the hearing. The only issues to be addressed at the hearing are whether the applicant or licensee is the obligor named in the child support order; whether the obligor owes \$1,000.00 or more in arrears or retroactive support; and whether the obligor is 30 or more days delinquent in payment of the child support order. No evidence of the appropriateness of the child support order or of the obligor's ability to comply shall be received or considered at the hearing. The records of the Division of Child Support Enforcement shall be presumptive of the amount of arrears or retroactive child support and of the obligor's payment history.

(g) If the obligor fails to timely request a hearing or to otherwise timely comply with the requirements of subsection (e) of this section to avoid denial or suspension of the license, or upon the issuance of a written decision adverse to the obligor after a hearing, the Director of the Division of Child Support Enforcement may notify the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation that the provisions of this section for denial or suspension of the obligor's license have been met. Such notification may be made electronically, by computer or by such other means as the Director of the Division of Child Support Enforcement and the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and the Director of the Division of Professional Regulation may agree, and such notification shall constitute sufficient authority for the denial or suspension of any license. The Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation shall forthwith deny the issuance or renewal of any license, or suspend the same, and so notify the applicant or licensee in writing. The notice from the Director of the Division of Child Support Enforcement shall be conclusive, and the action of the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation in compliance therewith shall be effective 4 days after the date notice of same is mailed to the obligor at the address on record at the Division of Motor Vehicles, the Division of Revenue, the Division of Fish and Wildlife or the Division of Professional Regulation. The obligor shall remain ineligible for the issuance, renewal or reinstatement of any license until the obligor obtains from the Director of the Division of Child Support Enforcement or his or her designee written certification that the grounds for denial or suspension of a license under this section no longer exist.

(h) Except as otherwise provided herein, all hearings and proceedings under this section shall be in accordance with the provisions of the Administrative Procedures Act, Chapter 101 of Title 29.

(i) The obligor may appeal a decision entered after a hearing under this section to the Family Court. The appeal shall be filed within 30 days of the day the notice of decision is mailed by the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife or the Director of the Division of Professional Regulation. The appeal shall be on the record to the Family Court and shall be as provided in §§ 10102(4) and 10142 through 10145 of Title 29.

(j) The process described in this section shall constitute the sole remedy for contesting the denial or suspension of a license based on the grounds in this section.

(k) The remedies provided in this section shall be in addition to any other remedies for the enforcement of a support order.

(l) Nothing in this section shall be construed as limiting the Family Court's authority to order the denial or suspension of any license as provided in § 516(g) of this title. Failure of the Family Court to order denial or suspension of a license under § 516(g) of this title shall not in any way limit or affect the authority to deny or suspend a license as provided in this section.

(m) The Director of the Division of Child Support Enforcement may enter into such agreements with the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife, the Director of the Division of Professional Regulation and such other agencies as may be appropriate to effectuate the purposes of this section.

(70 Del. Laws, c. 452, § 1; 71 Del. Laws, c. 216, §§ 60-74.)

CHAPTER 3. HORSE RACING

Subchapter I. Delaware Thoroughbred Racing Commission.

301-309. [Transferred.]

Subchapter II. License to Conduct Racing Meet; Taxes.

321-330. [Transferred.]

Subchapter III. Regulatory Provisions, Offenses and Penalties.

341-347. [Transferred.]

Subchapter IV. Wagering or Betting by Pari-Mutuel Machines or Totalizators.

361-369. [Transferred.]

Subchapter I. Delaware Thoroughbred Racing Commission

§ 301. -309.

Transferred.

Subchapter II. License to Conduct Racing Meet; Taxes

§ 321. -330.

Transferred.

Subchapter III. Regulatory Provisions, Offenses and Penalties

§ 341. -347.

Transferred.

Subchapter IV. Wagering or Betting by Pari-Mutuel Machines or Totalizators

§ 361. -369.

Transferred.

CHAPTER 4. HORSE RACING IN KENT COUNTY

Subchapter I. License to Conduct Racing Meet; Taxes.

401. Authority for horse racing in Kent County on five-eighths mile track.

402. License as required.

403. Application; inspections and examinations; rejection; award of dates and maximum racing days.

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409. Rules, regulations and special powers of Commission; subpoenas; contempt; perjury.

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Subchapter IV. Jurisdiction and Effect.

461. Authority of Delaware Thoroughbred Racing Commission;
"Commission" defined.

462. Effect of chapter.

Subchapter I. License to Conduct Racing Meet; Taxes

§ 401. Authority for horse racing in Kent County on five-eighths mile track.

Horse racing for stake, purse or reward at and upon a race track of no less than five-eighths of a mile in circumference may be conducted in Kent County subject to this chapter. Such horse racing may be conducted during either daylight or evening hours, or both.

(28 Del. C. 1953, § 401; 56 Del. Laws, c. 119.)

§ 402. License as required.

Any person desiring to conduct horse racing for any stake, purse or reward in Kent County during any calendar year shall first obtain a license to do so from the Delaware Thoroughbred Racing Commission.

(28 Del. C. 1953, § 402; 56 Del. Laws, c. 119; 63 Del. Laws, c. 143, § 14.)

§ 403. Application; inspections and examinations; rejection; award of dates and maximum racing days.

(a) Any person desiring to conduct a horse racing meet within Kent County during any calendar year shall file an application with the Secretary of the Commission on or before a date to be fixed by the Commission. The application shall specify the days on which such racing is desired to be conducted and shall be in such form and supply such data and information, including a blueprint of the track and specifications of its surface and blueprints and specifications of buildings and grandstand on the land where the meet is to be conducted as the Commission prescribes; provided, however, that it shall not be necessary for the applicant to submit blueprints and specifications with the application if the race meet for which a license is requested to be conducted is at a track for which the Commission granted a license the preceding year.

(b) The blueprints and specifications shall be subject to the approval of the Commission, which, at the expense of the applicant, may order such engineering examination thereof as the Commission deems necessary. The erection and construction of the track, grandstand and buildings of any applicant for a license to conduct horse racing under this chapter shall be subject to the inspection of the Commission, which may order such engineering examination as the Commission deems necessary at the expense of the applicant and may employ such inspectors as the Commission considers necessary for that purpose.

(c) The Commission may reject any application for a license for any cause which it deems sufficient, and the action of the Commission shall be final.

(d) The Commission shall, on or before the 15th day of January of each year, award all dates for horse racing in Kent County within the current year, but the dates so awarded shall not exceed 55 days in the aggregate. The decision of the Commission on the award of all dates shall be final.

(e) No more than 2 horse racing meets shall be held in Kent County in any 1 year.

(f) The Commission may meet subsequently to the 15th day of January of each year and award dates for horse racing within the limits provided in this section on application submitted to it, provided that the days so awarded in no way conflict with any other provision of this chapter.

(g) No license to conduct horse racing under the provisions of this section shall be granted except to a private stock corporation formed and existing under the laws of this State for the purpose of conducting horse racing and businesses incident thereto in compliance with the following conditions and requirements:

(1) Before a license shall be issued under the provisions of this chapter, the applicant shall file with the Commission, in addition to other requirements of this chapter, the names, addresses and the terms of office of its directors and officers and at such other time or times thereafter as they may be changed, the names and addresses of such directors and officers, a copy of the certificate of incorporation duly certified by the Secretary of the State and a copy of its bylaws. Such applicant shall file with the Commission a copy of any amendment to its certificate of incorporation, duly certified as aforesaid, within 10 days after the effective date of any such amendment;

(2) The board of directors of the applicant shall not be less than 5 in number;

(3) The applicant shall have no other office except in this State;

(4) Every applicant for a license shall file with the Commission, at the time of application for a license, a statement of its resources and liabilities. The Commission shall have access at all times to the books, records and accounts of the licensee;

(5) No license shall be issued unless a majority of the board of directors and officers shall be bona fide residents of this State.

(28 Del. C. 1953, § 403; 56 Del. Laws, c. 119; 56 Del. Laws, c. 245; 57 Del. Laws, c. 304; 59 Del. Laws, c. 178, § 1.)

§ 404. Application and license fees.

(a) Any person, upon applying to the Commission for a license to conduct a horse racing meet pursuant to this chapter during any calendar year, shall, at the time of making the application, pay to the Secretary of the Department of Finance a fee of \$500.

(b) Any person who is granted a license by the Commission to conduct a horse racing meet pursuant to this chapter during any calendar year shall, at the time the license is granted, pay to the Secretary of the Department of Finance an additional fee of \$250.

(28 Del. C. 1953, § 404; 56 Del. Laws, c. 119; 57 Del. Laws, c. 741, § 32A.)

§ 405. Issuance.

Upon the award of dates to any applicant, the Commission shall issue a license for the holding of the meet or meets during the dates awarded to the applicant. The license shall be subject to all rights, regulations and conditions from time to time prescribed by the Commission.

(28 Del. C. 1953, § 405; 56 Del. Laws, c. 119.)

§ 406. Suspension or revocation; appeal.

(a) Any license issued by the Commission shall be subject to suspension or revocation by the Commission for any cause whatsoever which the Commission deems sufficient. If any license is suspended or revoked, the Commission shall state publicly its reasons for so doing and cause an entry of the reasons to be made on the minute book of the Commission, and its action shall be final.

(b) The propriety of such action shall be subject to review upon questions of law only by the Superior Court of Kent County. The action of the Commission shall stand unless and until reversed by the Court.

(28 Del. C. 1953, § 406; 56 Del. Laws, c. 119.)

§ 407. Rules of Jockey Club and of National Steeplechase and Hunt Association.

Repealed by 63 Del. Laws, c. 143, § 15, eff. July 13, 1981.

§ 408. Inspection of racing premises prior to meet.

Not less than 5 days prior to the opening of any meet authorized by the Commission, the Commission, at the expense of the licensee for the meet, shall cause to be made an inspection of the track, grandstand and buildings where the meet is to be held, and, unless such track, grandstand and buildings are found to be safe for animals and persons or are rendered safe prior to the opening of the meet, the license for the meet shall be withdrawn.

(28 Del. C. 1953, § 408; 56 Del. Laws, c. 119.)

§ 409. Rules, regulations and special powers of Commission; subpoenas; contempt; perjury.

(a) (1) The Commission shall adopt regulations governing the operation of thoroughbred racing including the regulation of betting in connection therewith and the regulation of the conduct of all participants in any racing meet, to insure the integrity and security of the conduct of meetings held pursuant to this chapter. Such regulations shall include provisions for disciplinary measures for violations thereof including the imposition of fines, suspension or revocation of licenses or permits, and ejection or expulsion from a licensee's premises.

(2) a. The Commission shall have the authority to impose a fine of up to \$5,000 for any violation of its regulations.

b. The stewards of a race meeting acting in accordance with such regulations if authorized by the Commission shall have the authority to impose disciplinary measures, including fines, suspension or revocation of licenses or permits, and ejection or exclusion from a licensee's premises.

c. All fines imposed pursuant to this section shall be paid over to the General Fund upon receipt by the Commission.

d. A person fined or otherwise disciplined by the stewards of a race meeting shall have a right of appeal to the Commission and for a hearing before the Commission. Any person fined or otherwise disciplined by the Commission shall have a right of appeal to the Superior Court of the State.

e. The action of the Commission shall stand unless and until reversed by the Court.

(3) The Commission may request and receive assistance from, and rely upon information provided by, the Thoroughbred Racing Protective Bureau, and state or federal law enforcement agencies, in the investigation of any matters within its jurisdiction.

(b) The Commission may make rules governing, restricting or regulating the rate or charge by a licensee for admission or for the performance of any service or the sale of any article on the premises of a licensee.

(c) All proposed extensions, additions or improvements to the buildings, stables or improvements on tracks or property owned or leased by a licensee under this chapter shall be subject to the approval of the Commission.

(d) The Commission may compel the production of any and all books, memoranda or documents showing the receipts and disbursements of any person licensed under the provisions of this chapter to conduct racing meets.

(e) The Commission may at any time require the removal of any employee or official employed by any licensee under this chapter.

(f) The Commission may require that the books, records and financial or other statements of any person licensed under the provisions of this chapter shall be kept in such form or in such manner as the Commission prescribes. The Commission may visit, investigate and place

expert accountants and such other persons as it deems necessary, in the offices, tracks or places of business of any such person for the purpose of satisfying itself that the Commission's rules and regulations are strictly complied with. The salaries and expenses of such expert accountants or other persons shall be paid by the person to whom they are assigned.

(g) The Commission may issue, under the hand of any Commissioner and the seal of the Commission, subpoenas for the attendance of witnesses and the production of books, papers and documents before the Commission and may administer oaths or affirmations to the witnesses whenever in the judgment of the Commission it is necessary for the effectual discharge of its duties. If any person refuses to obey any subpoena or to testify or to produce any books, papers or documents, the Commission may apply to the Superior Court of Kent County, and, thereupon, the Court shall issue its subpoena requiring the person to appear and to testify or to produce the books, papers and documents. Whoever fails to obey or refuses to obey a subpoena of the Court shall be guilty of contempt of court and shall be punished accordingly. False swearing on the part of any witness shall be deemed perjury and shall be punished as such.

(28 Del. C. 1953, § 409; 56 Del. Laws, c. 119; 63 Del. Laws, c. 143, § 16.)

§ 410. Licensee's annual financial statement.

Every licensee shall file with the Commission not later than 4 months after the close of its fiscal year a statement, duly certified by an independent public accountant, of its receipts from all sources whatsoever during the fiscal year and of all expenses and disbursements, itemized in the manner and form directed by the Commission, showing the net revenue from all sources derived by the licensee during the fiscal year covered by such statement.

(28 Del. C. 1953, § 410; 56 Del. Laws, c. 119.)

§ 411. Tax on admissions; books and records; inspection.

(a) Every person licensed to hold a horse racing meet within Kent County shall pay to the Secretary of the Department of Finance a tax of 10 cents on each admission on each day of any such meet, excepting admissions of persons performing any duty or work in connection with the holding of the meet and excepting admissions of spouses of jockeys, owners and trainers of horses participating in the meet. The licensee may collect such amount from each ticket holder in addition to the amount charged for the ticket of admission.

(b) Accurate records and books shall at all times be kept and maintained by the licensee showing the number of admissions, employees of the licensee and spouses of jockeys, owners and trainers of horses excepted, for each racing day of each horse racing meet. The Secretary of the Department of Finance, or his duly authorized representative, shall at all reasonable times have access to the admission records of any licensee for the purpose of examining and checking the same and ascertaining whether or not the proper amount has been, or is being, paid to the State. The Secretary of the Department of Finance may also, from time to time, require sworn statements of the number or numbers of such admissions and prescribe blanks upon which the reports shall be made.

(28 Del. C. 1953, § 411; 56 Del. Laws, c. 119; 57 Del. Laws, c. 741, § 32B.)

Subchapter II. Regulatory Provisions, Offenses and Penalties

§ 421. Application of chapter; simulcasts of races.

This chapter shall apply to horse races upon which wagering or betting is conducted in accordance with subchapter III of this chapter. For purposes of this chapter simulcasts of horse races or harness horse races displayed within the enclosure of any horse race meeting shall constitute horse racing within said enclosure.

(28 Del. C. 1953, § 421; 56 Del. Laws, c. 119; 57 Del. Laws, c. 229; 64 Del. Laws, c. 21, § 3.)

§ 422. Liability insurance of licensee.

Ten days before any horse racing meet may be held under this chapter, those licensed to conduct the meet shall deposit with the Commission a policy of insurance against personal injury liability which may be sustained at the meet. The insurance shall be in an amount approved by the Commission with premium prepaid.

(28 Del. C. 1953, § 422; 56 Del. Laws, c. 119.)

§ 423. Limitation on compensation that may be paid by licensee.

No salary, fee or compensation exceeding the sum of \$2,000 shall be paid in any calendar year by any person licensed under this chapter, except to officials or employees actively engaged in the operations incident to the holding of the racing meet or in the maintenance of the racing plant.

(28 Del. C. 1953, § 423; 56 Del. Laws, c. 119.)

§ 424. Enforcement.

All officers of the law shall cooperate with the Commission for the proper enforcement of this chapter.

(28 Del. C. 1953, § 424; 56 Del. Laws, c. 119.)

§ 425. Aiding or abetting unlicensed meet; penalty.

Whoever aids or abets in the conduct of any meet within Kent County at which horse racing or horse races are permitted for any stake, purse or reward, and upon which wagering or betting is conducted as provided in this chapter, except in accordance with a license duly issued and unsuspended or unrevoked by the Commission, shall be fined not less than \$500 and not more than \$10,000 for each day of such unauthorized meeting, or imprisoned.

(28 Del. C. 1953, § 425; 56 Del. Laws, c. 119.)

§ 426. Failure of licensee to pay tax on admissions; penalty.

(a) Whoever, being a licensee, fails or refuses to pay the amount found to be due by the Secretary of the Department of Finance as the tax on admissions shall be fined not more than \$25,000 in addition to the amount due the Secretary of the Department of Finance.

(b) All fines up to the amount found to be due the Secretary of the Department of Finance and paid into court by a licensee guilty of violating this section shall be transmitted and paid over by the clerk of the court to the Secretary of the Department of Finance.

(28 Del. C. 1953, § 426; 56 Del. Laws, c. 119; 57 Del. Laws, c. 741, § 32B.)

§ 427. Restrictions on licensee acting as video lottery agent.

During any calendar year in which a licensee under this chapter has also been licensed by the Director of the State Lottery Office to maintain video lottery machines within the confines of a racetrack licensed under this chapter, an amount calculated pursuant to § 4815(b)(3) of Title 29 shall be added to the purses for the races to be held at the licensee's racetrack. The allocation of said sums among the races to be held at the licensee's racetrack shall be in accordance with contracts currently in force, or with the horse racing association recognized for purposes related to the allocation of purses, if applicable; provided, that all of such sums shall have been allocated no later than the end of the calendar year immediately following the calendar year of receipt of said sums by the licensee.

(69 Del. Laws, c. 446, § 21.)

Subchapter III. Wagering or Betting by Pari-Mutuel Machines or Totalizators

§ 441. Place for wagering.

Within the enclosure of any horse racing meet licensed and conducted under this chapter, but not elsewhere, the wagering and betting on horse racing by the use of pari-mutuel machines or totalizators is authorized and permitted.

(28 Del. C. 1953, § 441; 56 Del. Laws, c. 119.)

§ 442. License to conduct pools; application; qualifications.

- (a) The Commission may grant a license to any person to make, conduct and sell pools by the use of pari-mutuel machines or totalizators for the purpose of receiving wagers or bets on horse races within the enclosure of any horse racing meet licensed and conducted under this chapter, but not otherwise, under such regulations as the Commission prescribes.
- (b) The Commission may prescribe regulations governing the granting of applications for licenses, the granting of licenses and the conditions under which any licensee may conduct, sell or make any such pool.
- (c) The qualifications of any licensee shall be such as to afford a reasonable belief that the licensee will be financially responsible and will conduct the business of operating the pools in a proper and orderly manner. A licensee to make, conduct and sell such pools shall be a person licensed to conduct a horse racing meet under this chapter.

(28 Del. C. 1953, § 442; 56 Del. Laws, c. 119.)

§ 443. Revocation of license.

All licenses for the operation of pools as provided in this chapter shall be revocable at any time, without hearing, at the absolute discretion of the Commission.

(28 Del. C. 1953, § 443; 56 Del. Laws, c. 119.)

§ 444. Rules, regulations and special powers of Commission.

- (a) The Commission may require the keeping of books and records by a licensee of a pool in such forms, or in such manner, as the Commission prescribes. The Commission may also regulate the duties of any employee of any such licensee, and visit, investigate and place expert accountants and such other persons as it deems necessary in the office or place of business of any person licensed to operate a pool for the purpose of satisfying itself that the Commission's rules and regulations are strictly complied with.
- (b) The Commission may also issue, under its hand and seal, subpoenas for the attendance of witnesses and production of books, papers and documents of the licensee before the Commission and may administer oaths or affirmations to the witnesses whenever in the judgment of the Commission it is necessary for the effectual discharge of its duties. If any person refuses to obey any subpoena, to testify or to produce any books, papers or documents, then the Commission may apply to the Superior Court of Kent County and thereupon the Court shall issue its subpoena requiring the person to appear and testify or to produce the books, papers and documents before the Commission. Any person failing to obey or refusing to obey a subpoena of the Court is guilty of contempt of court and shall be punished accordingly. False swearing on the part of any witness shall be deemed perjury and shall be punished as such.

(28 Del. C. 1953, § 444; 56 Del. Laws, c. 119.)

§ 445. Tax on pari-mutuel and totalizator pools.

(a) (1) Every person engaged in the business of conducting a horse racing meet under this chapter shall pay as a tax to this State a percentage of the total contributions to all pari-mutuel and totalizator pools conducted or made on each racing day on any and every racetrack licensed under this chapter and on all races that day at such track.

(2) The percentage of such pari-mutuel and totalizator pools to be paid as such tax shall be as follows:

a. One percent if the total daily contributions to such pools do not exceed \$400,000;

b. Three percent if the total daily contributions to such pools exceed \$400,000 but do not exceed \$600,000;

c. Five percent if the total daily contributions to such pools exceed \$600,000.

(3) The tax shall be computed daily and shall be paid by a certified check on a weekly basis. Each check shall be transmitted by the licensee to the Secretary of the Department of Finance no later than Wednesday following the week for which the tax is due.

(b) In addition to the other taxes required by this section, every person engaged in the business of conducting a horse racing meet under this chapter shall pay as a tax to this State 2 percent of the total contributions to all special pari-mutuel and totalizator pools conducted or made on each racing day on any and every racetrack licensed under this chapter. Special pari-mutuel and totalizator pool means a separate wagering pool in which an interest is represented by a single wager on 2 or more horses, and shall include, but not be limited to daily doubles, exactas, quinellas, perfectas, tri-perfectas, twin doubles and big exactas.

(28 Del. C. 1953, § 445; 56 Del. Laws, c. 119; 57 Del. Laws, c. 741, § 32C; 58 Del. Laws, c. 298, § 3; 60 Del. Laws, c. 164, § 1; 60 Del. Laws, c. 165, § 1.)

§ 446. Licensee's commissions on pari-mutuel and totalizator pools.

(a) The Commission shall authorize commissions pursuant to subsection (b) of this section on pari-mutuel or totalizator pools to all licensees operating a racing meet pursuant to this chapter. The commission shall be a portion of the total daily contributions to all pari-mutuel or totalizator pools conducted or made at the racing meet and at every race at that meet, plus the odd cents of all redistributions to be made on all pari-mutuel or totalizator pool contributions exceeding the sum equal to the next lowest multiple of 10, such odd cents to be calculated upon the basis of each dollar wagered.

(b) IF TOTAL DAILY CONTRIBUTIONS TO SUCH COMMISSION POOLS ARE:

16 1/2% \$1.00 to \$400,000

14 1/2% \$400,001 to \$600,000

12 1/2% over \$600,000.

(28 Del. C. 1953, § 446; 56 Del. Laws, c. 119; 60 Del. Laws, c. 164, § 2.)

§ 447. Deduction of federal taxes from total of contributions.

For the purpose of making any of the calculations of amounts payable to the State and to the licensee under §§ 445 and 446 of this title, no federal taxes, if any, shall be deducted from the amount of total contributions before applying the percentage specified in those sections.

(28 Del. C. 1953, § 447; 56 Del. Laws, c. 119.)

§ 448. Disposition of moneys for unclaimed pari-mutuel tickets.

All sums held by any licensee for payment of outstanding pari-mutuel tickets not claimed by the person or persons entitled thereto within a period of 1 year following the last day of the meet shall be paid by certified check to the Commission. If the Commission finds such payment correct it shall transmit the check to the State Treasurer.

(28 Del. C. 1953, § 448; 56 Del. Laws, c. 119.)

Subchapter IV. Jurisdiction and Effect

§ 461. Authority of Delaware Thoroughbred Racing Commission; "Commission" defined.

(a) The Delaware Thoroughbred Racing Commission as created and existing under Chapter 3 of this title shall have jurisdiction over horse racing in Kent County pursuant to this chapter and shall have authority to grant licenses therefor as provided in this chapter.

(b) The word "Commission" as it appears in this chapter shall mean the Delaware Thoroughbred Racing Commission as created and existing pursuant to Chapter 3 of this title.

(28 Del. C. 1953, § 461; 56 Del. Laws, c. 119; 63 Del. Laws, c. 143, § 17.)

§ 462. Effect of chapter.

No provision of this chapter shall in any way be construed to repeal any provision contained in Chapter 3 of this title, provided, however, that where any provision of this chapter shall be in conflict with any provision of Chapter 3 of this title, the provisions of this chapter shall control with respect to horse racing in Kent County.

(28 Del. C. 1953, § 462; 56 Del. Laws, c. 119.)

CHAPTER 5. HARNESS RACING

Subchapter I. Delaware Harness Racing Commission.

501-510. [Transferred.]

Subchapter II. License to Conduct Harness Racing Meet; Taxes.

521-530. [Transferred.]

Subchapter III. Regulatory Provisions, Offenses and Penalties.

541-546. [Transferred.]

Subchapter IV. Wagering or Betting by Pari-Mutuel Machines or Totalizators.

551-558. [Transferred.]

Subchapter V. Delaware Standardbred Development Fund.

561. Definitions.

562. Delaware Standardbred Development Fund.

563. Board of Trustees of the Fund.

564. Use of the Fund; conditions for races and participation.

565. Scheduling of races.

566. Location of races.

567. Rules of the Board.

568. Budget procedures.

569. Advertising budget.

570. Operating budget.

Subchapter I. Delaware Harness Racing Commission

§ 501. -510.

Transferred.

Subchapter II. License to Conduct Harness Racing Meet; Taxes

§ 521. -530.

Transferred.

Subchapter III. Regulatory Provisions, Offenses and Penalties

§ 541. -546.

Transferred.

Subchapter IV. Wagering or Betting by Pari-Mutuel Machines or Totalizators

§ 551. -558.

Transferred.

Subchapter V. Delaware Standardbred Development Fund

§ 561. Definitions.

As used in this subchapter:

- (1) "Horse," "stallion," "mare," or "foal" means horses of the standardbred breed;
- (2) "Accredited Delaware standardbred horse," means a horse conceived and born in this State which is:
 - a. Born of a mare that is residing in this State at the time of such conception, remains continuously in the State through the date on which such horse is born and is registered as required by the rules of the Board; and
 - b. Conceived by a stallion that is residing in this State from the 1st day of February to the 1st day of August of the year in which such horse is conceived stands for breeding purposes only in this State in the year in which such horse is conceived and is registered as required by the rules of the Board;
- (3) "Delaware conceived and foaled horse" means a horse born in this State of a mare bred in this State and sired by a stallion standing for breeding purposes in this State at the time of the conception of such horse and not standing for such purposes at any place outside the State during the calendar year in which such horse is conceived, and which horse is registered as required by the rules of the Board of Trustees;
- (4) "Delaware foaled horse" means a horse born after December 31, 1967, of a mare which enters this State on or before the 15th day of July of the year in which the horse is conceived and remains continuously in this State until the horse is born, which horse is registered as required by the rules of the Board of Trustees;
- (5) "Delaware owned horse" means a horse whose owner is a Delaware owner as defined in the rules of the Board.

(28 Del. C. 1953, § 561; 56 Del. Laws, c. 156, § 2.)

§ 562. Delaware Standardbred Development Fund.

There is created in the State Treasury a special Delaware Standardbred Development Fund, hereinafter referred to as "Fund," which shall consist of moneys deposited thereto pursuant to § 10056 of Title 3.

(28 Del. C. 1953, § 562; 56 Del. Laws, c. 156, § 2.)

§ 563. Board of Trustees of the Fund.

The Governor shall appoint 7 members to the Board of Trustees of the Fund, hereinafter referred to as "the Board," for a term of 4 years. The Board shall consist of the following: One person from each county who represents a holder of a pari-mutuel license in that county, 1 person who is a recognized breeder of standardbred horses in this State, and 3 persons, 1 from each county who are members of a recognized standardbred horsemen's association. Four of the members of the Board shall be members of 1 of the 2 major political parties and the other 3 members shall be members of the other political party.

(28 Del. C. 1953, § 563; 56 Del. Laws, c. 156, § 2.)

§ 564. Use of the Fund; conditions for races and participation.

(a) The Board shall use the Fund to promote Delaware bred harness horse races and to provide purses for such races for horses in the following order of preference, so that the funds will be used for races for a lower preferenced class of horses when sufficient races for a higher preferenced class:

(1) Accredited Delaware standardbred horses;

(2) Delaware conceived and foaled horses;

(3) Delaware foaled horses;

(4) Delaware owned horses.

(b) Such races shall be held on such conditions as the Board may at its sole discretion determine. The Board may combine any of the above classes of horses in 1 race with preference given to horses of the higher preferenced class. No horse shall compete in any race for which moneys from the Fund are used for purse purposes unless such horse is registered as required by the rules of the Board. In no event shall the Board require an entry fee in excess of \$100 for such races. In no event shall the age of any horse or horses exceed 4 years.

(28 Del. C. 1953, § 564; 56 Del. Laws, c. 156, § 2.)

§ 565. Scheduling of races.

Each holder of a license to conduct a harness racing meet shall schedule Delaware bred harness horse races promoted by and according to the direction of the Board in accordance with its direction of the Board but the licensee shall have the absolute right and uncontrolled discretion to fix the date or dates and the time or position on its daily racing programs at which such races shall be held and to determine whether or not such races shall be wagering or nonwagering races.

(28 Del. C. 1953, § 565; 56 Del. Laws, c. 156, § 2.)

§ 566. Location of races.

At least 20 percent of the total purse money provided by the Board annually for Delaware bred harness horse races, as authorized by § 564 of this title, shall be allocated for the special races required by this subchapter in each county of the State.

(28 Del. C. 1953, § 566; 56 Del. Laws, c. 156, § 2.)

§ 567. Rules of the Board.

The Board shall implement this subchapter by the promulgation of such rules as it finds necessary or desirable including rules relating to the registration of horses and the qualification of owners as Delaware owners. Such rules may include such nominating and stake fees as the Board determines are appropriate.

(28 Del. C. 1953, § 567; 56 Del. Laws, c. 156, § 2.)

§ 568. Budget procedures.

Procedures for the use of the Fund by the Board, as authorized in § 564 of this title, shall be established by the Department of Finance.

(28 Del. C. 1953, § 568; 56 Del. Laws, c. 156, § 2; 57 Del. Laws, c. 740, § 15.)

§ 569. Advertising budget.

Advertising for the Fund shall not exceed 10 percent of the annual income of the Fund.

(28 Del. C. 1953, § 569; 56 Del. Laws, c. 156, § 2.)

§ 570. Operating budget.

The total operating budget of the Fund, not including advertising, shall not exceed 10 percent of the annual income of the Fund.

(28 Del. C. 1953, § 570; 56 Del. Laws, c. 156, § 2.)

**CHAPTER 7. INFLUENCING RESULTS OF SPORTING EVENTS BY
BRIBERY AND OTHER UNLAWFUL MEANS**

Sec. 701. Bribing participant in sporting event; penalty.

702. Participant in sporting event soliciting or receiving bribe.

703. Bribing official of sporting event.

704. Official of sporting event soliciting or receiving bribe.

705. Influencing result of horse race or harness horse race; penalty.

§ 701. Bribing participant in sporting event; penalty.

Whoever directly or indirectly gives or promises to give any money or valuable thing as a bribe, present or reward to any person taking part or intending to take part, as a professional or amateur participant, in any baseball, football or basketball game, boxing match or other sporting contest, with intent to induce such person to lose or cause the loss or attempts to lose or cause the loss of any such game, match or contest by such person or by the team or side of such person shall be fined not more than \$3,000 or imprisoned not more than 3 years, or both.

(Code 1935, § 3898A; 46 Del. Laws, c. 231; 28 Del. C. 1953, § 701.)

§ 702. Participant in sporting event soliciting or receiving bribe.

Whoever takes part or expects to take part, in any baseball, football or basketball game, boxing match or other sporting contest as a professional or amateur participant, who shall solicit or receive, directly or indirectly, any money or valuable thing, as a bribe, present or reward to lose or cause the loss or to attempt to lose or cause the loss of such game, match or contest, by such person or by the team or side of such person shall be fined not more than \$3,000 or imprisoned not more than 3 years or both.

(Code 1935, § 3898A; 46 Del. Laws, c. 231; 28 Del. C. 1953, § 702.)

§ 703. Bribing official of sporting event.

Whoever directly or indirectly gives or promises to give any money or valuable thing as a bribe, present or reward to any person acting or intending to act as a referee, umpire, judge, timer, measurer or as an official for any purpose, for any amateur or professional athletic or sporting game, match or contest with intent to induce such person to act corruptly in making decisions, rulings, interpretations or adjudications or in the performance of his official duties in connection therewith shall be fined not more than \$3,000 or imprisoned not more than 3 years or both.

(Code 1935, § 3898A; 46 Del. Laws, c. 231; 28 Del. C. 1953, § 703.)

§ 704. Official of sporting event soliciting or receiving bribe.

Whoever acting or intending to act as a referee, umpire, judge, timer, measurer or as an official for any purpose for any amateur or professional athletic or sporting game, match or contest, solicits or receives, directly or indirectly, any money or valuable thing, as a bribe, present or reward to act corruptly in making any decision, ruling, interpretation or adjudication or in any matter in the performance of his official duties in connection therewith shall be fined not more than \$3,000 or imprisoned not more than 3 years or both.

(Code 1935, § 3898A; 46 Del. Laws, c. 231; 28 Del. C. 1953, § 704.)

§ 705. Influencing result of horse race or harness horse race; penalty.

(a) No person shall influence or attempt to influence the result of a race conducted by a licensee of the Delaware Harness Racing Commission or of the Delaware Racing Commission by:

(1) Influencing or having any understanding or connivance with any owner, jockey, groom or other person associated with or interested in any stable, horse or race in which any horse participated or is to participate in order to prearrange or predetermine the result of any such race;

(2) Interfering or attempting to interfere with, tampering with, injuring or destroying by the use of any narcotic, drug, stimulant, appliance or by any other means any horse that is to participate in a running race or a harness race in this State, whether such horse is the property of such person or another;

(3) Allowing or permitting a horse over which such person has control to participate in a race with the knowledge of any interference with, tampering with or any injury to such horse by any narcotic, drug, stimulant, appliance or by any other means;

(4) Causing, instigating, counseling or in any way aiding or abetting in any interference with, tampering with, injury to or destruction of any horse that is to participate in a running or harness race in this State by the use of any narcotic, drug, stimulant, appliance or by any other means.

(b) The owner of any horse affected in any manner as provided in subsection (a) of this section shall permit any member of the commission which issued the license for the meet at which or during which any horse was affected as above outlined, or any person appointed by such commission for that purpose, to make such test as the commission deems proper in order to determine whether any such horse has been interfered with, tampered with, injured or destroyed by the use of any narcotic, drug, stimulant, appliance or by any other means.

(c) Whoever violates any provision of this section shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned for not less than 1 year nor more than 5 years or both.

(Code 1935, § 3898A; 46 Del. Laws, c. 231; 28 Del. C. 1953, § 705.)

TITLE 28. SPORTS AND AMUSEMENTS
CHAPTER 9. MISCELLANEOUS PROVISIONS
SUBCHAPTER I. GENERAL PROVISIONS

§ 904. Antique slot machines.

No person shall offer or make available any slot machine as a form of public amusement or entertainment. An individual may, however, possess and privately use antique slot machines if such machines are not used for gambling purposes. For purposes of this section, a slot machine is an antique slot machine if such machine is at least 25 years old.

(68 Del. Laws, ch. 252, § 3.)

§ 905. Bowling alleys.

Any person of a good moral character may keep and maintain a bowling alley or tenpin alley. The bowling alley or tenpin alley shall be kept in an orderly manner. It may not be used for purposes of gambling but simply as a means of recreation and exercise.

(11 Del. Laws, c. 432, § 1; Code 1915, § 3571; Code 1935, § 4062; 28 Del. C. 1953, § 905.)

§ 906. Prohibition of horse racing on Good Friday or Easter Sunday.

There shall be no horse racing of any kind on Good Friday or Easter Sunday.

(28 Del. C. 1953, § 906; 59 Del. Laws, c. 25, § 1.)

CHAPTER 11. BINGO AND CHARITABLE GAMBLING
SUBCHAPTER I. PURPOSE, SCOPE, DEFINITIONS AND REFERENDUMS

§ 1101. Purpose and scope.

This chapter shall provide for referendums on games and the regulation and control of games, provided that the district in which it is conducted votes in favor of such games. Games shall be conducted in Delaware only by those licensed under this chapter and subject to the limitations herein.

(28 Del. C. 1953, § 1101; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, § 4.)

§ 1102. Definitions.

As used in this chapter:

- (1) "Bingo" means a game of chance played for prizes with cards bearing numbers or other designations, 5 or more in 1 line, the holder covering numbers as objects similarly numbered are drawn from a receptacle and the game being won by the person who first covers a previously designated arrangement of numbers on such a card;
- (2) "Board" means the Delaware Gaming Control Board;
- "Game or games" means bingo, instant bingo, and charitable gambling;
- (4) "Organization" means a veterans', religious or charitable organization, volunteer fire company or fraternal society as defined in article II, § 17A or 17B of the state Constitution;
- (5) "Districts" means those districts mentioned in article II, § 17A or 17B of the state Constitution;
- (6) "Charitable gambling" means any game or scheme operated by an organization which has been in existence 2 years or longer in which chance is the dominant factor in determining the allocation of a prize, excluding slot machines, roulette, craps or baccarat games;
- (7) "Instant bingo" means any game of chance played with sealed or covered cards which must be opened in some fashion by the holder, such that the cards reveal instantly whether the holder has won a prize. This subdivision includes, but is not limited to, so-called "rip-offs", or "Nevada pull-tabs".

(28 Del. C. 1953, § 1102; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, §§ 2, 3, 6; 65 Del. Laws, c. 180, § 1; 67 Del. Laws, c. 16, §§ 1, 2, 8.)

§ 1103. Referendums in general elections.

In the event that a majority of all the members elected to each house of the General Assembly by the qualified electors in any district mentioned in article II, § 17A or 17B of the state Constitution shall request in writing to the Speaker of the House of Representatives and to the President of the Senate, not less than 30 days preceding the next succeeding general election, that the question of license or no license of the playing of the game of bingo be submitted to a vote of the qualified electors of said district, the department of elections with jurisdiction over the district concerned shall cause to be printed on the ballots used in the next succeeding general election after said request the following question:

"Do you favor the licensing of the playing of the game of bingo within the limits of

(insert the words, "City of Wilmington," "Sussex County," "Kent County" or "New Castle County outside of the City of Wilmington," as the case may be)?"

(28 Del. C. 1953, §§ 1110, 1111; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, § 6.)

§ 1104. Applicability of general election laws; conduct of referendum.

- (a) Title 15, insofar as it is applicable shall apply to all referendums held under the

provisions of this chapter. A voter may indicate his or her answer to the question submitted by voting in the affirmative or negative.

(b) Each department of elections shall take steps to insure that the equipment and supplies used at the general election are adjusted and modified to the extent necessary to permit the recording, tabulation and certification of the referendum vote.

(c) The department of elections of each county shall constitute a board of canvass for the purpose of canvassing the vote in any referendum held under this chapter.

(d) The provisions of Title 15 and the Constitution of this State relating to the certification and canvassing of the vote in general elections shall be followed insofar as those provisions are applicable.

(e) The Governor shall certify and proclaim the results of any such referendum at the time he certifies and proclaims the results of the general election pursuant to the provision of § 5710 of Title 15.

(f) The State Election Commissioner is empowered to prescribe such procedure and to make such rules and regulations, not inconsistent with this section or any other law of this State, as he may deem necessary to insure uniformity of method in the three counties in certifying and canvassing the vote in any referendum held under this chapter.

(28 Del. C. 1953, § 1112; 51 Del. Laws, c. 65, § 1; 51 Del. Laws, c. 354.)

Subchapter II. Delaware Gaming Control Board

§ 1120. Composition; term of office; vacancies; compensation; organization.

Repealed by 63 Del. Laws, c. 144, § 1.

§ 1121. Expenses and personnel.

Repealed by 71 Del. Laws, c. 138, § 4, eff. July 3, 1997.

§ 1122. Duties; rules and regulations; forms.

(a) The Board shall:

(1) Supervise the administration of this chapter, and

(2) Adopt, amend and repeal rules and regulations governing the issuance and amendment of licenses to conduct the games under such licenses and schedules of rentals which may be paid for the leasing of equipment for use in connection with the games. The rules and regulations shall have the force of law. Such licenses shall be issued to qualified licensees only. The Board shall also take measures to assure that games shall be fairly and properly conducted for the purposes and in the manner prescribed in the state Constitution and in this chapter. The Board shall prevent the game from being conducted for commercial purposes or private profit other than as authorized in the state Constitution and in this chapter. In order to provide uniformity in the administration of this chapter the Board shall prescribe forms of

application for licenses, amendment of licenses, reports of the conduct of games and other matters incident to the administration of this chapter.

(b) A copy of the rules and regulations adopted by the Board shall be available at a reasonable cost.

(28 Del. C. 1953, § 1122; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, §§ 4, 5.)

§ 1123. Continuous study of operation of this chapter and similar laws.

(a) The Board shall conduct a continuous study and investigation of the operation of this chapter for the purpose of making recommendations to the General Assembly for amendments.

(b) The Board shall make a continuous study and investigation also of the operation and administration of similar laws which may be in effect in other states of the United States and of any literature on the subject which from time to time may be published or be available.

(28 Del. C. 1953, § 1123; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, § 5.)

§ 1124. Reports and recommendations by Board.

The Board shall report to the Governor and the General Assembly biennially with its recommendations, if any, and at such other times as it may deem advisable.

(28 Del. C. 1953, § 1124; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, § 5.)

SUBCHAPTER III. LICENSING

§ 1130. Power to license.

The Board may license an organization as defined in article II, § 17A or 17B of the state Constitution to conduct the games, provided the organization is located in and seeks to conduct the game in a district which has approved the licensing of games by referendum.

(28 Del. C. 1953, § 1130; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, §§ 4-6.)

§ 1131. Application; eligibility.

(a) Each applicant for a license shall file with the Board a written application in the form prescribed in its rules and regulations, duly executed and verified, in which shall be stated the name and address of the applicant together with sufficient facts relating to its organization to

enable the Board to determine whether or not it is a bona fide organization eligible to conduct games within the meaning of article II, § 17A or 17B of the state Constitution. The applicant shall supply such other facts as the Board may require.

(b) In each application there shall be designated the active member or members of the organization under whom the games are to be conducted. To the application shall be appended a statement by the applicant and by its member or members, so designated to read as follows: "If a license is granted the undersigned will be responsible for the conduct of such game in accordance with the terms of this chapter, the license and the rules and regulations governing the conduct of such games."

(c) Proof of exemption from federal income tax under § 170 of the Internal Revenue Code of the United States [26 U.S.C. § 170] shall be prima facie evidence that the applicant is an eligible organization within the meaning of article II, § 17A or 17B of the state Constitution, but the Board may require any additional information from the applicant which may be pertinent to the question of its eligibility.

(28 Del. C. 1953, § 1131; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, §§ 4-6.)

§ 1132. Investigation; conditions for grant of license.

(a) The Board shall make an investigation of the qualifications of each applicant and the merits of each application. The Board shall consider the impact of the approval of any new license application to existing licensees within the applicant's geographical location prior to granting the approval, and may deny the application if it concludes that approval of the application would be detrimental to existing licensees.

(b) The Board may issue a license only after it determines that:

(1) The applicant is duly qualified to conduct games under the state Constitution and of this chapter and the rules and regulations governing the conduct of games; and

(2) The member or members of the applicant who intend to conduct the games are bona fide active members of the applicant and are persons of good moral character and have never been convicted of crime involving moral turpitude; and

(3) Such games are to be conducted in accordance with the provisions of the state Constitution and this chapter and in accordance with the rules and regulations governing the conduct of games; and

(4) The proceeds are to be disposed of as provided in the state Constitution and by this chapter; and

(5) No salary, compensation or reward whatever will be paid or given to any member under whom the game is conducted; and

(6) No prize will be offered or given in excess of the sum or value of \$250 in any single game and the aggregate of all prizes offered or given in all of such games conducted on a single occasion shall not exceed the sum or value of \$1000. For purposes of this paragraph, the value of any promotional giveaways, which value shall be no more than \$500 per annum to be distributed at an organizational anniversary date and no more than 3 holiday dates per year, shall not be counted towards the dollar amounts described herein.

(7) Notwithstanding subsection (b)(6) of this section, a licensed operator of a bingo event may offer inducements, including but not limited to cookie-jar bingo games that do not exceed \$500 per game per night, free refreshments and free transportation of players to and from bingo events, to attract bingo players to the bingo event; provided, that the total fair market value of inducements is limited to 15% of the total amount of all other prizes offered or given during the bingo event. Any amounts in any cookie-jar bingo games shall not be included in these limitations or in any prize money limitations.

(28 Del. C. 1953, § 1132; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, §§ 4, 5; 69 Del. Laws, c. 216, §§ 2, 4; 71 Del. Laws, c. 444, § 5.)

§ 1133. License fees; exceptions.

- (a) There shall be a license fee of \$15 for each occasion upon which bingo or charitable gambling are to be conducted under such license.
- (b) (1) The Board may issue a license without fee to any bona fide organization eligible to conduct games within the meaning of article II, § 17A or 17B of the state Constitution, provided such organization conducts games for recreational purposes, does not intend to make a profit, does not make a profit, does not charge a fee for participation and offers no prize in excess of \$5 for any single game.
- (2) In lieu of reports required by § 1140 of this title, an organization granted a license by this subsection shall certify to the Board, in its license application, that games conducted by it comply with the conditions specified in this subsection.
- (c) There shall be an annual license fee of \$300 for each organization sponsoring instant bingo games.

(28 Del. C. 1953, § 1133; 51 Del. Laws, c. 65, § 1; 54 Del. Laws, c. 102; 55 Del. Laws, c. 160; 62 Del. Laws, c. 17, § 1; 64 Del. Laws, c. 93, § 1; 64 Del. Laws, c. 100, §§ 4-6; 67 Del. Laws, c. 16, §§ 3, 4.)

§ 1134. Duration of license.

- (a) No license shall be effective for a period of more than 1 year from the date it was issued.
- (b) No license shall be effective after the organization to which it was granted has become ineligible to conduct the game under any provision of article II, § 17A or 17B of the state Constitution.
- (c) No license shall be effective after the voters in any district designated in article II, § 17A or 17B of the state Constitution have decided against games in a referendum held pursuant to that section and §§ 1103 and 1104 of this title.

(28 Del. C. 1953, § 1134; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, §§ 4, 6.)

§ 1135. Refusal to license; hearing.

No application for a license shall be refused by the Board until a hearing held after due notice to the applicant. At any such hearing the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of its application. The burden of proof shall be on the applicant.

(28 Del. C. 1953, § 1135; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, § 5.)

§ 1136. Amendments to licenses.

Any license issued under this chapter may be amended by the Board if the subject matter of the proposed amendment could lawfully and properly have been included in the original license upon application and payment of an additional license fee.

(28 Del. C. 1953, § 1136; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, § 5.)

§ 1137. License form and provisions; display.

(a) Each license shall be in the form prescribed in the rules and regulations of the Board and shall contain:

- (1) The name and address of the licensee;
- (2) The names and addresses of the members of the licensee under whom such games will be conducted;
- (3) The number of times, or the hours during which, such games are authorized to be conducted;
- (4) The place or places where and the date or dates when, such games may be conducted;
- (5) The specific purposes to which the entire net proceeds of such games are to be devoted;

(6) If any prize or prizes are to be offered or given a statement of the amounts or values of the prizes authorized so to be offered or given;

(7) Any other information which may be required by the rules and regulations.

(b) Each license shall be conspicuously displayed at the place where the game is to be conducted at all times during the conduct thereof.

(28 Del. C. 1953, § 1137; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, § 5.)

§ 1138. Supervision.

(a) The Board shall exercise control and supervision over all games to the end that the games are fairly conducted in accordance with the provisions of the license, the rules and regulations of the Board, the provisions of the state Constitution and of this chapter.

(b) The Board, its officers and agents shall have the right of entry at all times into any place where any such game is being conducted or where it is intended that any such game shall be conducted or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same.

(28 Del. C. 1953, § 1138; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, § 5.)

§ 1139. Limitations and regulations under license.

(a) Bingo and charitable games conducted shall not commence prior to 1:30 p.m. The operation of a function shall be limited to 6 consecutive hours, except as permitted by

regulation 3.08(2). Instant bingo is permitted during any event sponsored by the entity that is licensed to conduct it, regardless of the day or time.

(b) No person under the age of 16 years shall be permitted to participate in any games. No person under the age of 18 shall be permitted to participate in any charitable gambling, the prize for which is money. No person under the age of 18 shall be permitted to participate in any instant bingo game.

(c) The number of games which an applicant may conduct in any 1 calendar month shall be set by the rules and regulations of the Board, provided that no bingo licensee licensed prior to the enactment of this section shall conduct more than 10 bingo events in any calendar month and no bingo licensee licensed after the enactment of this section shall conduct more than 1 bingo event per week. For purposes of this subsection, a bingo licensee licensed prior to the enactment of this section whose license lapses for 6 months or more due to nonrenewal or suspension or any other reason shall, upon licensing thereafter, be considered a licensee licensed after the enactment of this section.

(d) No games shall be conducted in any room or area where alcoholic beverages are sold or served during the progress of the game.

(e) No person shall conduct or assist in conducting any game except an active member of the organization to which the license is issued.

(f) No item of expense shall be incurred or paid in connection with the conduct of the game except such as are bona fide items of a reasonable amount for merchandise furnished or services rendered which are reasonably necessary for the conduct of the game.

(g) No salary, compensation or reward whatever shall be paid or given, directly or indirectly, to any person conducting or assisting in the conduct of the game.

(h) (1) A licensed operator may charge an admission fee to a game event in any room or area in which a game is to be conducted. The admission fee shall entitle the game player:

a. To a card enabling the player to participate without additional charge in all regular games to be played under license at the event or;

b. To free refreshments.

The licensed operator may charge an additional fee to a game player for a single opportunity to participate in a special game to be played under license at the event.

(2) No prize greater in amount or value than \$250 shall be offered or given in any single game and the aggregate amount or value of all prizes offered or given in all games played on a single occasion shall not exceed \$1000. All winners shall be determined and all prizes shall be awarded in any game played on any occasion within the same calendar day as that upon which the game is played. For purposes of this paragraph, the value of any promotional giveaways, which value shall be no more than \$500 per annum to be distributed at an organizational anniversary date and no more than 3 holiday dates per year, shall not be counted towards the dollar amounts described herein.

(3) Notwithstanding subsection (h)(2) of this section, a licensed operator of a bingo event may offer inducements, including but not limited to cookie-jar bingo games that do not exceed \$500 per game per night, free refreshments and free transportation of players to and from bingo events, to attract bingo players to the bingo event, provided that the total fair market value of inducements is limited to 15% of the total amount of all other prizes offered or given during the bingo event. Any amounts in any cookie-jar bingo games shall not be included in these limitations or in any prize money limitations.

(4) This subsection shall apply only to bingo games.

(5) Unless a bingo licensee has been licensed prior to the enactment of this section, only 1 licensed organization may hold bingo games in a licensed organization's building during any given week.

(i) [Repealed.]

(j) Any licensed games organization shall have discretionary authority to promulgate rules and regulations on the eligibility of persons permitted to participate in the nightly prize or prizes; provided, however, they have been approved by the Board, and further provided, that if approved by the Board, such rules and regulations shall be conspicuously displayed at the main entrance where all patrons can observe same.

(k) The Board may make reasonable rules and regulations with respect to the size of bets

and prizes with respect to the conduct of games other than bingo.

(28 Del. C. 1953, § 1139; 51 Del. Laws, c. 65, § 1; 58 Del. Laws, c. 335; 59 Del. Laws, c. 367, § 1; 61 Del. Laws, c. 355, § 1; 62 Del. Laws, c. 325, § 1; 64 Del. Laws, c. 100, §§ 4, 5, 7-9; 67 Del. Laws, c. 16, §§ 5, 6; 69 Del. Laws, c. 216, §§ 1, 3; 71 Del. Laws, c. 444, §§ 1-4.)

§ 1140. Reports after games; records; examinations; applicability.

(a) Within 15 days after the conclusion of any game, the organization which conducted the game and its members who were in charge shall furnish to the Board a duly verified statement showing:

- (1) The gross receipts derived from each game;
 - (2) Each item of expense incurred or paid;
 - (3) The name and address of each person to whom each such item has been, or is to be paid, with a description of the merchandise purchased or the services rendered therefor;
 - (4) The net profit derived for each such game;
 - (5) The general uses to which such net profit has been or is to be applied; and
 - (6) A list of prizes offered and given, with the respective values thereof.
- (b) Each licensee shall maintain the records to substantiate the particulars of the reports.
- (c) The Board may examine or cause to be examined the records of any organization to which any license is issued so far as they may relate to any transactions connected with games and examine any manager, officer, director, agent or employee thereof under oath in relation to the conduct of any games.
- (d) This section shall not apply to instant bingo.

(28 Del. C. 1953, § 1140; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, §§ 4, 5; 67 Del. Laws, c. 16, § 7.)

SUBCHAPTER IV. ENFORCEMENT

§ 1150. Immunity from arrest for violation of gambling laws; exceptions.

No person:

- (1) Lawfully conducting or participating in the conduct of; or
 - (2) Possessing, selling or in any manner disposing of, any shares, tickets or rights to participate in; or
 - (3) Permitting the conduct upon any premises owned by him or it, of any game conducted or under license issued pursuant to this chapter,
- shall be liable to prosecution or conviction for violation of any of the provisions of the Delaware Code not contained in this chapter pertaining to gambling, but this immunity shall not extend to any person knowingly conducting or participating in any unlicensed game or in any game under any license obtained by any false pretense or statement made in any application for such license or otherwise, or possessing, selling or disposing of shares, tickets or rights to participate in, or permitting the conduct upon any premises owned by him or it, of any game conducted under any license known to him or it to have been obtained by any

false or fraudulent pretense or statement.

(28 Del. C. 1953, § 1150; 51 Del. Laws, c. 65, § 1.)

§ 1151. Investigations and hearings; witnesses; books and documents.

The Board shall conduct investigations as to violations of this chapter. The Board may compel the attendance of witnesses and the production of books and documents relating to transactions connected with the conducting of games by the issuance of subpoenas signed by the Chairman or an employee of the Board designated by the Chairman, which may be served by any person 21 years of age or over.

(28 Del. C. 1953, § 1151; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, §§ 4, 5.)

§ 1152. Privilege against self-incrimination.

No person shall be excused from testifying or producing any book or document in any investigation or hearing when ordered so to do by the Board upon the ground that the testimony or documentary evidence required of him may tend to incriminate him or subject him to penalty or forfeiture but no person shall be prosecuted, punished or subjected to any penalty or forfeiture on account of any matter concerning which he shall, under oath, have testified or produced documentary evidence except that he shall not be exempt from prosecution or punishment under §§ 1221-1235 of Title 11 for any perjury or false statement.

(28 Del. C. 1953, § 1152; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, § 5.)

§ 1153. Contempt; application to Superior Court; order.

(a) If a person subpoenaed to attend any investigation or hearing fails to obey without reasonable cause, or if a person in attendance in any such investigation or hearing refuses, without lawful cause, to be examined or to answer a legal or pertinent question or to exhibit any book, account, record or other document when ordered so to do by the Board, it may apply to the Superior Court for an order directing such person to show cause why he should not comply with such subpoena or such order.

(b) Upon return of the rule, the Court shall examine such person under oath, and if the Court shall determine, after giving such person an opportunity to be heard, that he refused without legal excuse to comply with a subpoena or order of the Board, the Court may order such person to comply therewith. Any failure to obey the order may be punished as a contempt of the Superior Court.

(28 Del. C. 1953, § 1153; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, § 5.)

§ 1154. Suspension or revocation of license.

The Board may suspend or revoke licenses, after hearing, for violations of this chapter or for violation of the rules and regulations adopted by the Board. At any hearing to suspend or revoke an otherwise valid license the Board shall have the burden of proving any violation or any other fact which might disqualify an organization holding a license.

(28 Del. C. 1953, § 1154; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, § 5.)

§ 1155. Institution of prosecutions.

The Board shall recommend to the Attorney General in writing that criminal prosecution be instituted for violations of this chapter. The Attorney General is responsible for the prompt institution of such proceeding, but if the Attorney General decides not to institute proceedings, he shall inform the Board in writing of his decision.

(28 Del. C. 1953, § 1155; 51 Del. Laws, c. 65, § 1; 64 Del. Laws, c. 100, § 5.)

§ 1156. Penalties.

Repealed by 63 Del. Laws, c. 390, § 8, eff. July 21, 1982.

CHAPTER 15. DELAWARE GAMING CONTROL BOARD

§ 1501. Objectives; functions.

(a) The primary objective of the Delaware Gaming Control Board, to which all other objectives and purposes are secondary, is to protect the public through the regulation and policing of sports, amusements and other activities which involve gambling and other practices which are unlawful except as permitted by law.

(b) In meeting its objectives, the Board shall develop standards assuring professional competence; shall monitor complaints from the general public relating to practices of persons engaged in an activity regulated by this chapter; shall adjudicate at formal complaint hearings; shall develop rules and regulations; and shall impose sanctions where necessary against persons or occupational groups regulated by the Board.

(63 Del. Laws, c. 144, § 2.)

§ 1502. Members; Chairman; meetings; quorum; records; conflict of interest.

(a) Composition; Chairman. The Delaware Gaming Control Board shall be composed of 5 members equally divided between all sports, amusements and other activities under the

Board's jurisdiction. Membership on the Board shall include public members, and the number of public members shall not be less than one-fourth of the total Board membership; and further provided that 1 member of the Board shall be a member active and in good standing from the Delaware Volunteer Fireman's Association. The Board shall annually elect a Chairman from among its membership.

(b) Qualifications. No member shall, while serving on the Board, be an elected or appointed official of a professional association which represents or claims to represent an occupational group regulated by this chapter. During the period a member serves on the Board his primary business or occupational office shall be located within this State; and such member shall be fully qualified in the occupation or activity which he represents.

(c) Appointment; term of office.

(1) All members of the Board shall be appointed by the Governor.

(2) All Board vacancies shall be filled by the Governor for the remainder of the term vacated, and successors shall have the same qualifications required for the original appointment.

(3) No member shall serve 2 consecutive full terms; provided, however, that a member may succeed himself for a full term if such full term immediately follows a partial term where the member had been appointed to fill a vacancy.

(4) All terms shall be for a period of 5 years; and the terms of Board members shall be staggered in such manner as will insure, as nearly as possible, an equal and uniform number of vacancies arising each year.

(5) The term of an appointed member shall expire on the date specified in the appointment, and the member shall no longer be eligible to participate in Board proceedings unless lawfully reappointed.

(6) The Chairman shall serve in that office for 1 year, and shall not succeed himself.

(d) Suspension or removal. A member of the Board shall be suspended or removed by the Governor for misfeasance, nonfeasance or malfeasance. A member subject to disciplinary proceedings shall be disqualified from Board business until the charge is adjudicated or otherwise concluded. A Board member may appeal any suspension or removal to the Superior Court.

(e) Compensation. Each member of the Board shall receive compensation at the rate of \$50 per meeting if he or she attends; provided, however, that no member shall receive compensation for the year in excess of \$500 and the Board shall not be paid for more than 10 meetings during a calendar year.

(f) Meetings; quorum.

(1) The Board shall hold a regularly scheduled business meeting at least once in each quarter of a calendar year and at such other times as the Chairman deems necessary, or at the request of a majority of Board members.

(2) Advance notice of any special meeting shall be given to all members.

(3) A majority of members shall constitute a quorum.

(4) Any member who fails to attend 3 consecutive meetings, or who fails to attend at least half of all regular meetings during any calendar year, shall automatically upon such occurrence be deemed to have resigned from office.

(g) Records. Minutes of all meetings shall be recorded and copies of the record shall be maintained by the Division of Professional Regulation. All matters relating to a hearing held pursuant to statute shall be recorded and transcribed by the Division.

(h) Conflict of interest. The provisions set forth for "employees" in § 5801 et seq. of Title 29 shall apply to all members of the Board, and to all agents and other persons appointed by or otherwise employed by the Board.

(63 Del. Laws, c. 144, § 2; 65 Del. Laws, c. 226, §§ 1, 2; 65 Del. Laws, c. 325, §§ 1, 2; 65 Del. Laws, c. 355, § 1.)

§ 1503. Powers and duties.

The Gaming Control Board shall regulate persons involved in those sports, amusements and other activities which are placed within its jurisdiction, and which involve gambling. The Board shall have all of the rights, powers and duties formerly vested in the Bingo Control Commission.

(63 Del. Laws, c. 144, § 2.)

§ 1504. Poker games.

The Gaming Control Board shall promulgate rules and regulations concerning the game of poker; provided, however, a licensed organization shall not be prohibited from utilizing monitors and/or engaging the use of dealers at any poker game.

(69 Del. Laws, c. 37, § 1.)

TITLE 29. STATE GOVERNMENT
PART IV. STATE AGENCIES AND OFFICES NOT CREATED BY
CONSTITUTION
CHAPTER 48. LOTTERIES
SUBCHAPTER I. STATE LOTTERY

§ 4801. Statement of purpose.

- (a) It is the purpose of this subchapter to establish a state-operated lottery under the supervision of a Director who shall be appointed by the Secretary of Finance with the written approval of the Governor and hold broad authority to administer the system in a manner which will produce the greatest income for the State.
- (b) In authorizing a video lottery, it is the further purpose of the General Assembly to:
- (1) Provide nonstate supported assistance in the form of increased economic activity and vitality for Delaware's harness and thoroughbred horse racing industries, which activity and vitality will enable the industry to improve its facilities and breeding stock, and cause increased employment; and
 - (2) Restrict the location of such lottery to locations where wagering is already permitted and controls exist.

(59 Del. Laws, c. 348, § 1; 60 Del. Laws, c. 539, § 1; 61 Del. Laws, c. 189, § 1; 69 Del. Laws, c. 446, § 2.)

§ 4802. State Lottery Office.

A State Lottery Office shall exist as part of the Department of Finance and shall be administered by a Director responsible for the operation of a state lottery. The net proceeds of the state lottery shall be placed in the General Fund of the State.

(59 Del. Laws, c. 348, § 1; 60 Del. Laws, c. 539, § 2.)

§ 4803. Definitions.

- (a) "Director," as used in this subchapter, shall mean the Director of the State Lottery Office.
- (b) "Lottery" or "state lottery" or "system" shall mean the public gaming systems or games established and operated pursuant to this subchapter and including all types of lotteries.
- (c) "Office" shall mean the State Lottery Office established by this subchapter.
- (d) "State Lottery Fund" shall mean those moneys derived from the sale of state lottery tickets and deposited in the state account of that name and those funds appropriated for the start-up costs of the system.
- (e) "Net moneys" shall mean all moneys received from the sale of lottery tickets after first deducting sales agent commissions and payment of prizes under \$600.
- (f) "Video lottery" shall mean any lottery conducted with a video lottery machine or a network of linked video lottery machines with an aggregate progression prize or prizes.
- (g) "Video lottery machine" shall mean any machine in which bills, coins or tokens are deposited in order to play in a game of chance in which the results, including options available to the player, are randomly and immediately determined by the machine. A machine may use spinning reels or video displays or both, and may or may not dispense coins or tokens directly to winning players. A machine shall be considered a video lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins or tokens unnecessary.
- (h) "Employee organization" shall mean any organization that admits or seeks to admit to membership employees of a Delaware video lottery agent and that has as a purpose the representation of such employees in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment, or conditions of work.
- (i) "Key employee" shall mean any officer or any employee of an employee organization who has direct involvement with or who exercises authority, discretion or influence in the representation of employees of a Delaware video lottery agent in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment or conditions of work and shall also mean an individual employee, person or agent of an applicant or licensee who has the power to exercise significant influence over significant business decisions concerning the applicant's or licensee's video lottery business.
- (j) "Video lottery operations employee" shall mean an individual employee, person or agent of an applicant or licensee who is responsible for the security of video lottery machines, or responsible for handling video lottery machine proceeds, or is otherwise employed in a position that allows direct access to the internal workings of video lottery machines.

(59 Del. Laws, c. 348, § 1; 60 Del. Laws, c. 9, § 1; 61 Del. Laws, c. 169, § 1; 61 Del. Laws, c. 189, § 1; 69 Del. Laws, c. 446, § 3; 71 Del. Laws, c. 184, § 1; 71 Del. Laws, c. 253, §§ 1, 2.)

§ 4804. Director - Appointment; qualifications; salary.

- (a) The State Lottery Office shall be administered and supervised by a Director who shall be a person qualified by business experience and training to supervise the operation of a public gaming system in a manner which will produce the greatest income for the State. The

Director shall be appointed by the Secretary of Finance with the written approval of the Governor.

(b) The qualifications of the person appointed as Director shall be as follows:

(1) Five or more years experience as the head of an autonomous business, division or independent segment of a large company or governmental agency having to do with public gaming. The position or positions held should have broad authority and carry major responsibility; except that experience in a public utility or other monopolistic enterprise does not meet this requirement. There shall be positive evidence that the company, division or independent segment of a large company or government agency was well managed during the tenure of the prospective Director;

(2) Shall be in good health, shall have a good reputation, particularly as a person of honesty and integrity, and shall be able to pass a thorough background investigation prior to appointment;

(3) Shall not hold political office in the government of the State either by election or appointment while serving as Director, nor shall anyone who holds elected or appointed office in the government of the State be appointed as Director until the person has completed serving the full term to which the person was elected or appointed. The Director shall be a citizen of the United States, and must become a resident of the State within 90 days of appointment.

(c) The Director shall serve on a full-time basis and shall not be engaged in any other profession or occupation. The Director shall receive such salary as provided by law.

(59 Del. Laws, c. 348, § 1; 60 Del. Laws, c. 93, § 1; 60 Del. Laws, c. 539, § 3; 70 Del. Laws, c. 186, § 1.)

§ 4805. Same - Powers and duties.

(a) The Director shall have the power and the duty to operate and administer the state lottery and to promulgate such rules and regulations governing the establishment and operation of the lottery as the Director deems necessary and desirable in order that the lottery be initiated at the earliest feasible time and in order that the system shall produce the maximum amount of net revenues consonant with the dignity of the State and the general welfare of the people. The rules shall provide for all matters necessary or desirable for the efficient and economical operation and administration of the system and for the convenience of the purchasers of lottery tickets and the holders of winning tickets, and the players of video lottery machines including, but not limited to, the following:

(1) Type and number of games to be conducted;

(2) Price or prices of tickets for any game;

(3) Numbers and sizes of the prizes on the winning tickets;

(4) Manner of selecting the winning tickets;

(5) Manner of payment of prizes to the holders of winning tickets;

(6) Frequency of the drawings or selections of winning tickets;

(7) Number and types of locations at which tickets may be sold;

(8) Method to be used in selling tickets;

(9) Licensing of agents to sell tickets; provided, that, no person under the age of 18 shall be licensed as an agent;

(10) Manner and amount of compensation, if any, to be paid to licensed ticket sales agents necessary to provide for the adequate availability of tickets to prospective buyers and for the convenience of the public;

(11) Apportionment of the total revenues accruing from the sale of tickets among:

a. Payment of prizes to the holders of winning tickets;

b. Payment of costs incurred in the operation and administration of the state lottery system,

including the expenses of the office and the costs resulting from any contract or contracts entered into for promotional, advertising or operational services or for the purchase or lease of gaming equipment and materials;

c. Repayment of the moneys appropriated to the State Lottery Fund pursuant to § 3 of 59 Del. Laws, c. 348; and

d. Payment of earnings to the General Fund of the State;

Provided, that no less than 30 percent of the total revenues accruing from the sale of tickets or shares shall be dedicated to subparagraph d. of this paragraph;

(12) Such other matters necessary or desirable for the efficient and economical operation and administration of the game and for the convenience of the purchasers of tickets and the holders of winning tickets and the players of video lottery machines;

(13) Value of bills, coins or tokens needed to play video lottery machines;

(14) Licensing of agents for video lotteries;

(15) Payout from video lottery machines, provided that such payouts shall not be less than 87% on an average annual basis, and further provided that video lottery agents may return a payout greater than 87% but not greater than 95% upon 10 days written notice to the Director, and further provided that video lottery agents may, with the approval of the Lottery Director, return a greater payout percentage than 95%;

(16) A licensure requirement and enforcement procedure (taking no more than 90 days to complete, unless extenuating circumstances require a longer period in which case the Director and the State shall act with all deliberate speed to complete the process) for officers, directors, key employees, video lottery operations employees and persons who own directly or indirectly 10% or more of such agent, which licensure requirement shall include the satisfaction of such security, fitness and background standards as the Director may deem necessary relating to competence, honesty and integrity, such that a person's reputation, habits and associations do not pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the video lottery; it being specifically understood that any person convicted of any felony, a crime involving gambling or a crime of moral turpitude within 10 years prior to applying for a license hereunder or at any time thereafter shall be deemed unfit. The Delaware State Police shall conduct the security, fitness and background checks required under this rule or regulation. It shall be the obligation of the video lottery agent to notify the Director on a continuing basis of any change in officers, partners, directors, key employees, video lottery operations employees and persons who own, directly or indirectly, 10% or more of such entity;

(17) A licensure requirement and enforcement procedure (taking no more than 90 days to complete, unless extenuating circumstances require a longer period in which case the Director and the State shall act with all deliberate speed to complete the process) for those persons or entities including video lottery manufacturers who propose to contract with a video lottery agent or the State for the provision of goods or services including management services, which licensure requirements shall include the satisfaction of such security, fitness and background standards for officers, directors, key employees, video lottery operations employees and persons who own directly or indirectly 10% or more of such entity, as the Director may deem necessary relating to competence, honesty and integrity, such that a person's reputation, habits and associations do not pose a threat to the public interest of the State or to the reputation of or effective regulations and control of the video lottery; it being specifically understood that any person convicted of any felony, a crime involving gambling or a crime of moral turpitude within 10 years prior to applying for a license hereunder or at any time thereafter shall be deemed unfit. The Director may determine whether the licensing standards of another state are comprehensive, thorough and provide similar adequate safeguards and, if so, may, in the Director's discretion, license an applicant already licensed in such state without the necessity of a full application and background check. The Delaware State Police shall conduct the security, fitness and background checks required under this rule or regulation. It shall be the obligation of any licensed entity, including technology providers, to notify the Director on a continuing basis of any change in officers, partners, directors, key employees, video lottery operations employees and persons who own, directly or indirectly, 10% or more of such entity;

- (18) Standards for advertising, marketing and promotional materials used by video lottery agents;
- (19) Regulations and procedures for the accounting and reporting of the payments required under § 4815(b) of this title, including the calculations required for payments under § 4815(b)(3)b of this title;
- (20) The registration, kind, type, number and location of video lottery machines on the licensee's premises, subject to the Director's obligations set forth in § 4820(b) of this title;
- (21) The on-site security arrangements for the video lottery machines;
- (22) Requiring the reporting of information about the video lottery agent, its employees, vendors and finances necessary or desirable to ensure the security of the video lottery system. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title;
- (23) The reporting and auditing of financial information of licensees including, but not limited to, the reporting of profits or losses incurred by licensees and the reporting by licensees of such employment and payroll information as is necessary for the Director to determine compliance with § 10148(1) of Title 3 or § 100048 of Title 3 as the case may be. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title;
- (24) a. A registration requirement and enforcement procedure for any employee organization representing or seeking to represent employees who are employed by a Delaware video lottery agent. Any employee organization may at any time file with the office an application for registration as an employee organization. However, an employee organization shall be required to file such registration application within 10 business days after it secures a signed authorization card from any employee who is employed by a Delaware video lottery agent. Any registration statement filed by an employee organization after the signature of an authorization card but prior to the employee organization's petition for election shall not be subject to disclosure by the Lottery Office to any video lottery agent;
- b. Every key employee of an employee organization shall be required to register with the office at the same time as the application for registration is filed under subparagraph a. of this paragraph or within 30 days after the date on which such individual is elected, appointed or hired, whichever is later;
- c. The application for registration by an employee organization or key employee of such employee organization may be denied or registration revoked under the following circumstances:
1. If such employee organization or key employee of such employee organization is in violation of standards established under the Labor-Management Reporting and Disclosure Procedure Prohibition Against Certain Persons Holding Office, 29 U.S.C 504(a);
 2. The applicant's competence, honesty or integrity pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the video lottery based on the applicant's associations or by virtue of the fact that the applicant has been convicted of a felony crime of moral turpitude or has been arrested for an act constituting racketeering under § 1502(9)a., b.2. or b.4. through 10. of Title 11 within 10 years prior to applying for registration hereunder or at any time thereafter. Any employee or employee organization denied registration based on an arrest for an act constituting racketeering under § 1502(9)a., b.2. or b.4. through 10. of Title 11 may apply for reconsideration of registration if subsequently acquitted or a nolle prosequi is entered or the charge is otherwise dismissed. In such instances, the Lottery Office shall reconsider the applicant's registration based on the criteria previously set forth in this subsection;
 3. The organization or individual has knowingly made or caused to be made any written statement to any representative of the office or the Delaware State Police or any oral response to an official inquiry by the office, its employees or agents which was at the time and in light of circumstances under which it was made false or misleading;
 4. The organization or key employee thereof holds or obtains a direct financial interest in any video lottery agent, provided the employee organization is provided a 30-day period to divest of any such direct financial interest.
- The Delaware State Police shall conduct the background checks required by this paragraph.

The failure of any key employee to satisfy the requirements of paragraph c.1. through 4. may constitute grounds for suspension of the registration of the employee organization if the organization does not remove the key employee from the key employee's duties as defined in § 4803(i) of this title. The employee organization will be given a reasonable opportunity to remove or replace any key employee found to be in violation of paragraph c.1. through 4.;

d. All registration statements filed under this paragraph shall be valid for a 1-year period and a renewed registration form or an updated supplemental registration form must be filed annually. The entity or individual filing such form is under a continuing duty to promptly notify the Director of any changes in disclosed information;

e. The Secretary of Finance shall, within a reasonable time, if requested by the Director, appoint a hearing officer to determine whether the application for registration shall be denied or the registration suspended or revoked. The hearing officer shall be required to hold a hearing in conformance with the requirements of § 10131 of this title. In any hearing, the Delaware Uniform Rules of Evidence shall be in effect. The denial of an application of registration or the suspension or revocation of a registration shall be bound by the provisions of §§ 10133 and 10134 of this title. The hearing officer's decision to deny an application of registration or to suspend or revoke a registration shall be appealable to the Superior Court under the Delaware Administrative Procedures Act. All applications for registration shall be deemed approved unless the Director notifies the applicant within 60 days of his or her decision not to approve and to appoint a hearing officer under this paragraph, or unless extenuating circumstances require a longer period, in which case the Director shall act with all deliberate speed to complete the process. Any employee organization may continue to provide services to employees of a Delaware video lottery agent during the review of the application process and the appeal process, except where the employee organization is found in violation of paragraph c.4. or there has been a previous violation of paragraph c.1. through 3. by the employee organization within the previous 10 years;

f. Information requested in the application of registration provided for under this paragraph shall be adopted as part of the office's official rules and regulations upon notice and opportunity for a hearing under the Delaware Administrative Procedures Act; and

(25) The Director shall adopt procedures under the Delaware Administrative Procedures Act for employment investigations of the honesty, integrity, reputation and associations of office employees in order to determine that the employee's employment does not pose a threat to the public interest of the State or the integrity of the office. The procedures and any rules and regulations shall require any person seeking employment for compensation with the office for a position which has direct access to lottery ticket sales agents, video lottery agents or vendors to submit his or her fingerprints and other relevant information in order to obtain the individual's entire federal and state criminal history record. The Delaware State Police shall conduct the investigations required under such rules and regulations. The rules and regulations shall require new employees to submit fingerprints for purposes of the state and federal criminal history checks.

(b) The Director shall also have the power and it shall be the Director's duty to:

(1) Appoint such deputy directors as may be required to carry out the functions and duties of the office. Each deputy director shall have had 3 years management experience in areas pertinent to the prospective responsibilities and an additional 3 years of experience in the same field.

(2) Within the limit of the funds made available in § 3 of 59 Del. Laws, c. 348, and proceeding from the sale of lottery tickets and generated by the operation of video lottery machines, appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed upon the office by this subchapter.

(3) In accordance with this subchapter, license as agents to sell lottery tickets persons who will best serve, by location or accessibility, the public convenience and promote the sale of lottery tickets. The Director may require a bond from every agent so licensed in such amount as the Director deems necessary. Every licensed agent shall prominently display the agent's license or a copy thereof.

(4) Enter into contracts for the operation of any game or part thereof and into contracts for the promotion of the game or games. This authorization is to be construed to include, but not

be limited to, contracting with any racing or other sporting association to conduct sporting events within any racetrack or sports field in the State, the outcome of which shall determine the winners of a state game or, as an alternative, to affiliate the determination of the winners of a game with any racing or sporting event held within or without the State. All contracts for other than professional services in an amount greater than \$2,000 shall be awarded to the lowest responsible bidder in the manner prescribed by state bidding laws. No contract awarded or entered into by the Director may be assigned by the holder thereof except by specific approval of the Director.

(5) Make arrangements for any person or organization, including banks, to perform such functions, activities or services in connection with the operation of the system as the Director may deem advisable.

(6) Suspend or revoke any license issued pursuant to this subchapter or the rules and regulations promulgated hereunder.

(7) Certify and report monthly to the State Treasurer the total lottery revenues, prize disbursements and other expenses for the preceding month, and to make an annual report to the Governor and the General Assembly, which report shall include a full and complete statement of revenues, prize disbursements and other expenses and recommendations for such changes in this subchapter as the Director deems necessary or desirable.

(8) Report immediately to the Governor and members of the General Assembly any matters which shall require immediate changes in the laws of the State in order to prevent abuses and evasions of this subchapter or the rules and regulations promulgated hereunder or to rectify undesirable conditions in connection with the administration or operation of the gaming system. Such a report shall be disclosed to the public immediately upon issuance.

(9) Carry on a continuous study and investigation of the system:

a. For the purpose of ascertaining any defects in this subchapter or in the rules and regulations issued hereunder by reason whereof any abuses in the administration and operation of the lottery or any evasion of this subchapter or the rules and regulations may arise or be practiced;

b. For the purpose of formulating recommendations for changes in this subchapter and the rules and regulations promulgated hereunder to prevent such abuses and evasions;

c. To guard against the use of this subchapter to benefit organized gambling and crime or criminals in any manner whatsoever; and

d. To insure that this law and the rules and regulations shall be in such form and be so administered as to serve the true purpose of this subchapter.

(10) Make a continuous study and investigation of:

a. The operation and administration of similar laws which may be in effect in other states and countries;

b. Any literature on the subject which from time to time may be published or available;

c. Any federal laws which may affect the operation of the lottery; and

d. The reaction of Delaware citizens to existing and potential features of the games with a view to recommending or effecting changes that will tend to serve the purposes of this subchapter.

(11) Make available to the State Auditor or the State Auditor's representative such information as may be required to perform an annual audit as prescribed in Chapter 29 of this title.

(12) Establish state-operated sales offices, without limit as to number or location, as the Director shall deem suitable and economical in order to make lottery tickets more available to the public, which offices shall be operated solely from funds generated by the lotteries permitted by this subchapter.

(13) License as video lottery agents each person, corporation or association which, in 1993, held either a horse racing meet pursuant to Title 3 or Title 28 or a harness horse racing meet pursuant to Title 3 and who satisfies such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. In the event that there shall have been or shall be a change of ownership or such person, corporation or association after the close of the 1993 racing meet then the issuance by the Director of a license to serve as a video lottery agent shall be conditioned upon the Director's determination that such person,

corporation or association shall have met the requirements of § 4806(a)(1)-(4) and (b) of this title and satisfies such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. Change of ownership occurring after the Director has issued a license shall automatically terminate the license 90 days thereafter unless the Director has determined after application to issue a license to the new owner(s) because the new owner(s) have met the requirements of § 4806(a)(1)-(4) and (b) of this title and satisfied such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. Any license granted pursuant to this subsection is a privilege personal to the video lottery agent and is not a legal right. A license granted or renewed pursuant to this subsection may not be transferred or assigned to another person, nor may a license be pledged as collateral. For purposes of this subsection, "a change of ownership" shall have occurred if more than 20 percent of the legal or beneficial interests in such person, corporation or association shall be transferred, whether by direct or indirect means.

(14) Whenever the Director deems necessary, examine all accounts, bank accounts, financial statements and records of the licensee in a licensee's possession or under its control in which it has an interest and the licensee must authorize all 3rd parties, including parents, subsidiaries or related entities, in possession or control of the accounts or records of the licensee to allow examination of any of those accounts or records by the Director. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title.

(15) Subpoena witnesses and compel the production of books, papers and documents of a licensee in connection with any hearings of the Director and may administer oaths or affirmations to the witnesses whenever, in the judgment of the Director, it may be necessary for the effectual discharge of duties.

If any person refuses to obey any subpoena or to testify or to produce any books, papers or documents, then the Director may apply to the Superior Court of the county in which the Director may be sitting and, thereupon, the Court shall issue its subpoena requiring the person to appear and testify or to produce the books, papers and documents before the Director. Whoever fails to obey or refuses to obey a subpoena of the Superior Court shall be guilty of contempt of court and shall be punished accordingly. False swearing on the part of any witness shall be deemed perjury and shall be punished as such.

(c) The license granted pursuant to subsection (b)(13) of this section may be revoked or suspended for cause upon 30 days' written notice to the licensee or due to a change in ownership as set forth in subsection (b)(13) of this section, but shall otherwise not be subject to expiration or termination. "Cause" shall by way of example and not by limitation include falsifying any application for license or report required by the rules and regulations, the failure to report any information required by the rules and regulations, the material violation of any rules and regulations promulgated by the Director or any conduct by the licensee which undermines the public confidence in the video lottery system or serves the interest of organized gambling or crime and criminals in any manner. A license may be revoked for an unintentional violation of any federal, state or local law, rule or regulation provided that the violation is not cured within a reasonable time as determined by the Director; or a longer period where the video lottery agent has made diligent efforts to cure. The Secretary of Finance shall within a reasonable time, if requested, appoint a hearing officer to hold a hearing to determine whether the license should be revoked or suspended. The hearing officer's decision revoking or suspending the license shall be appealable to the Superior Court under the provisions of the Administrative Procedures Act. Any decision of the Director relating to the business plan or the number of video lottery machines to be awarded to licensees under § 4820(b) of this title shall be appealable under the Administrative Procedures Act in the manner of a case decision. Notwithstanding the foregoing, nothing in this subsection shall otherwise prohibit the termination or revocation of a license in accordance with the rules and regulations adopted hereunder.

10-13; 70 Del. Laws, c. 167, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 184, § 2; 71 Del. Laws, c. 253, §§ 3-5.)

§ 4806. Lottery sales agents - Qualifications; prohibitions.

(a) No license as an agent to sell lottery tickets shall be issued to any person to engage in business exclusively as a lottery ticket sales agent except those persons hired to staff the State Lottery Office or a state-operated sales office. Before issuing a license to an agent, the Director shall consider such factors as:

- (1) Financial responsibility and security of the person and the person's business or activity;
- (2) Accessibility of the person's place of business or activity to the public;
- (3) Sufficiency of existing licenses to serve the public convenience; and
- (4) Volume of expected sales.

(b) If the Director shall find that the experience, character and general fitness of the applicant are such that the participation of such a person as a lottery ticket sales agent will be consistent with the public interest, convenience and the purposes of this subchapter, the Director shall thereupon grant a license.

For the purposes of this section, the term "person" shall be construed to mean and shall include an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall also be construed to mean and include all departments, commissions, agencies and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

(59 Del. Laws, c. 348, § 1; 61 Del. Laws, c. 189, § 1; 70 Del. Laws, c. 186, § 1.)

§ 4807. Same - Authorization of agents.

Notwithstanding any other provision of law, any person licensed as provided in this subchapter is hereby authorized and empowered to act as a lottery ticket sales agent or a video lottery agent as the case may be.

(59 Del. Laws, c. 348, § 1; 61 Del. Laws, c. 189, § 1; 69 Del. Laws, c. 446, § 14.)

§ 4807A. Fingerprinting procedure required.

(a) Any person seeking a license from the State Lottery Office shall be required to submit fingerprints and other necessary information in order to obtain the following:

- (1) A report of the individual's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Bureau of Identification Central Repository contains no such information relating to that person; and
- (2) A report of the individual's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544. The State Bureau of Identification shall be the intermediary for the purposes of this section and the State Lottery Office shall be the screening point for the receipt of said federal criminal history records.

(b) All information obtained pursuant to subsection (a) of this section shall be forwarded to

the State Lottery Office, which shall access the information and make a determination of suitability for licensure. The person seeking licensure shall be provided with a copy of all information forwarded to the State Lottery Office pursuant to this subsection. Information obtained under this subsection is confidential and may only be disclosed to the Director and Deputy Director of the State Lottery Office. The State Bureau of Identification may release any subsequent criminal history to the State Lottery Office.

(c) Costs associated with obtaining criminal history information shall be paid by the person seeking licensure.

(d) A person seeking licensure shall have an opportunity to respond to the State Lottery Office regarding any information obtained pursuant to subsection (b) of this section prior to a determination of suitability for licensure. The grounds upon which a person seeking licensure may be denied consideration for a license include, but are not limited to:

(1) A conviction of a felony in this State or any other jurisdiction; or

(2) A conviction of any crime involving gambling or a crime of moral turpitude within 10 years prior to applying for a license or at any time subsequent to the granting of a license.

(e) Upon making its determination of suitability for licensure, the State Lottery Office shall forward the determination to the person seeking a license.

(f) Any person seeking a license with the State Lottery Office who has submitted to a criminal background check in this or any other state within the previous 12 months shall not be required to submit to another criminal background check; provided, however, that the person submits (1) the results of such previous criminal background check, including any previous federal criminal background check, and (2) a reference from the person's most recent employer, if any, covering the previous 12 months.

(g) The State Lottery Office shall, in the manner provided by law, promulgate regulations necessary to implement this subchapter. These regulations shall include, but are not limited to:

(1) Establishment, in conjunction with the State Bureau of Identification, of a procedure for fingerprinting persons seeking licensure with the State Lottery Office and providing the reports obtained pursuant to subsection (a) of this section;

(2) Establishment of a procedure to provide confidentiality of information obtained pursuant to subsection (a) of this section and of the determination of suitability for licensure.

(70 Del. Laws, c. 167, § 2; 70 Del. Laws, c. 186, § 1.)

§ 4808. Nonassignability of prizes.

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No right of any person to a prize or a portion of a prize shall be assignable; except that payment of any prize shall be made to the estate of a deceased prize winner; and except that any person pursuant to an appropriate judicial order may be paid the prize, or portion thereof, to which the winner is entitled. The Director shall be discharged of all further liability upon payment of a prize pursuant to this section.

(59 Del. Laws, c. 348, § 1; 64 Del. Laws, c. 383, § 1.)

§ 4809. Restrictions on ticket sales; penalties.

- (a) No person shall sell a ticket at a price greater than that fixed by rule or regulation of the Director. No person other than a licensed lottery sales agent shall sell lottery tickets or shares, except that nothing in this section shall be construed to prevent any person from giving lottery tickets to another as a gift or bonus.
- (b) Any person convicted of violating this section shall pay a fine not exceeding \$500.

(59 Del. Laws, c. 348, § 1.)

§ 4810. Sales to certain persons prohibited; penalties.

- (a) No ticket shall be sold to any person under the age of 18 years but this shall not be deemed to prohibit the purchase of a ticket for the purpose of making a gift by a person 18 years of age or older to a person less than that age; nor shall any person under the age of 21 years be permitted to play a video lottery machine.
- (b) No ticket shall be purchased by and no prizes received by or awarded to any officers or employees of the State Lottery Office or any member of their immediate households. Any person convicted of violating this section shall forfeit any prize money so obtained and shall be sentenced to not less than 1 year in jail and pay a fine of no less than \$5,000.

(59 Del. Laws, c. 348, § 1; 60 Del. Laws, c. 539, § 4; 66 Del. Laws, c. 367, § 2; 69 Del. Laws, c. 446, § 15.)

§ 4811. Jurisdiction in Superior Court.

The Superior Court shall have exclusive jurisdiction of offenses under this subchapter.

(59 Del. Laws, c. 348, § 1; 61 Del. Laws, c. 189, § 1.)

§ 4812. Disposition of unclaimed prize money.

Unclaimed prize money for the prize on a winning ticket shall be retained by the Director for the person entitled thereto for 1 year after the drawing or event in which the prize was won. If no claim is made for said money within such year, the prize money shall be reverted to the State Lottery Fund.

(59 Del. Laws, c. 348, § 1; 60 Del. Laws, c. 539, § 5; 66 Del. Laws, c. 303, § 152.)

§ 4813. Prizes to minors.

If the person entitled to a prize or any winning ticket is under the age of 14 years, the Director may direct payment of the prize by delivery to an adult member of the minor's family or a guardian of the minor a check or a draft payable to the order of the minor. The

Director shall be discharged of all liability upon payment of a prize to a minor pursuant to this section.

(59 Del. Laws, c. 348, § 1.)

§ 4814. Transfer of funds and transaction records between agents and the State.

The Director may, at the Director's discretion, require any or all lottery ticket sales agents to deposit to the credit of the State Lottery Fund in banks designated by the Director all or part of the moneys received by such agents from the sale of lottery tickets and to file with the Director or the Director's designated agents reports of their receipts and transactions in the sale of lottery tickets in such form and containing such information as the Director may require. The Director or a representative shall make such arrangements with any licensed sales agent.

(59 Del. Laws, c. 348, § 1; 70 Del. Laws, c. 186, § 1.)

§ 4815. State Lottery Fund.

(a) All moneys received from the sale of lottery tickets shall be accounted for to the State Treasurer and all net moneys shall be placed into a special account known as the State Lottery Fund. From the Fund, the Director shall first pay for the operation and administration of the lottery as authorized in this subchapter and thereafter shall pay as prizes not less than 45% on the average of the total amount of tickets which have been sold and are scheduled for sale throughout the games, which percentage shall include prizes already awarded or to be awarded. The total of payments for operations and administration of the lottery shall not exceed 20% of the gross amount received from the sale of tickets. The remaining moneys shall accumulate in the State Lottery Fund for the payments of operations and administration costs and on a monthly basis, or more frequently if required by the Director, there shall be placed into the General Fund of the State a payment of earnings provided that no less than 30% of the total revenues accruing from the sale of tickets or shares shall be so dedicated. In the event that the percentage allocated for operations (including prize payments) generates a surplus, said surplus shall be allowed to accumulate to an amount not to exceed \$1,000,000. On a quarterly basis, the Director shall report to the Secretary of Finance any surplus in excess of \$1,000,000 and remit to the General Fund of the State the entire amount of those surplus funds in excess of \$1,000,000.

(b) All proceeds, net of proceeds returned to players pursuant to paragraph (1) of this subsection, from the operation of the video lottery shall be electronically transferred daily or weekly at the discretion of the Lottery Director into a designated State Lottery account by the agent, and transferred to the State Lottery Fund by the Lottery on a daily or weekly basis and shall be applied as follows:

(1) Proceeds returned to players. A portion of such proceeds, but not less than 87% of the total proceeds on an average annual basis received from the operation of a video lottery, shall be retained by and returned to the players under rules prescribed by the Director. Proceeds returned to players in excess of the payout authorized pursuant to § 4805(a)(15) of this title shall be the sole responsibility of the video lottery agent and the State Lottery's proceeds shall not be reduced on account of such excess payment.

(2) Proceeds returned to the State. Of amounts remaining after all payments to players under paragraph (1) of this subsection, there shall be returned to the State:

- a. 12.5% of the average daily win (the amount remaining after all payments to players) not exceeding \$25,000;
- b. 15% of the average daily win exceeding \$25,000 but not in excess of \$50,000;
- c. 20% of average daily win exceeding \$50,000 but not in excess of \$75,000; and
- d. 30% of average daily win in excess of \$75,000.

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The funds retained by the State Lottery shall be applied as follows: first, to the administrative costs and expenses in respect of the video lottery including, but not limited to, administrative expenses including payroll and other employment costs attributable to the operation of the video lottery by the State Lottery Office, law-enforcement and security expenses, including payroll and other employment costs of the State Lottery, the office of the Attorney General and the Delaware State Police, attributable to the operation by the State Lottery of a video lottery; second, \$100,000 or 1%, whichever is greater, of the proceeds distributed under (b)(2)a.-d. of this section, to the Division of Alcoholism, Drug Abuse and Mental Health of the Department of Health and Social Services for funding programs for the treatment, education and assistance of compulsive gamblers and their families; and third, costs of the Administrator of Racing and racing inspectors referenced in Chapters 100 and 101 of Title 3; and fourth, the remainder shall be paid into the State's General Fund.

(3) Application of remaining proceeds. The proceeds remaining after payments as set forth in paragraphs (1) and (2) of this subsection shall be applied as follows:

a. Additional state proceeds. The State shall receive an additional 12.27% of the proceeds remaining after payments made under paragraph (1) of this subsection from the proceeds attributable to licensees which conducted 40 or fewer (but at least 1) days of live harness horse races during 1992, 12.59% of such proceeds of licensees which conducted more than 40 days of live harness racing during 1992 or which conduct thoroughbred racing under Title 28, and 12.73% of such proceeds of licensees which conduct thoroughbred horse racing pursuant to Chapter 101 of Title 3. From these proceeds, the State shall pay for all costs of equipment (both video lottery machines and related equipment), whether leased or owned by the State, used or under the control of such agent and the cost of the central computer used to monitor the equipment used by the agent. The State shall also pay \$1,000,000 of the proceeds received under this section from licensees under this chapter which conduct live harness horse racing to fund the State's contribution to the Delaware Standardbred Breeder's Program. Said amount is to be allocated equally as of January 1st of the calendar year among existing licensees which conduct live harness horse racing, but moneys shall not be expended for the program until such time as a plan has been approved pursuant to subparagraph (b)(3)b.2.D. of this section. Moneys remaining after payment of all costs of equipment and central computer monitoring shall be deposited to the General Fund of the State.

b. Purses.

1. For video lottery agents licensed only to conduct horse racing meets under Chapter 101 of Title 3 or Chapter 4 of Title 28, such agents shall be paid and shall pay additional purses (and related administrative expenses of the horse racing association) to be applied under the direction of the Delaware Thoroughbred Racing Commission, for races conducted at such agent's racetrack in accordance with § 10148 of Title 3 or § 427 of Title 28 as appropriate, in an amount calculated as follows: 10% of the proceeds remaining after payments made under subsection (b)(1) of this section.

2. For video lottery agents licensed only to conduct harness racing meets under Chapter 100 of Title 3, such agents shall be paid and shall pay additional purses (and related administrative expenses of the horse racing association) to be applied under the direction of the Delaware Harness Racing Commission to purses for races conducted at such agent's racetrack in accordance with § 10048 of Title 3, in an amount calculated as follows:

A. Where the average daily win (the amount remaining after all payments to players) for the

preceding calendar year is less than or equal to \$25,000 per day, the agent shall pay an amount equal to 10% of the proceeds remaining after payments made under subsections (b)(1), (b)(2) and (b)(3)a. of this section.

B. Where the average daily win for the preceding calendar year is greater than \$25,000 and less than or equal to \$50,000, the agent shall pay 10% of the first \$25,000 in proceeds remaining after payments made under subsections (b)(1), (b)(2) and (b)(3)a. of this section, and 20% of such remaining proceeds in excess of \$25,000.

C. Where the average daily win for the preceding calendar year is greater than \$50,000, the agent shall pay 20% of the proceeds remaining after payments made under subsections (b)(1), (b)(2) and (b)(3)a. of this section. During the 1st year of operation, the additional purses will be based upon the average daily win for the then current year.

D. \$1,000,000 of those proceeds, which would otherwise fund purses, on an annual basis (\$500,000 to come from each licensee which conducts live harness horse racing) to be set aside for purses under subsection (b)(3)b.2. of this section shall be used to fund a Delaware Standardbred Breeder's Program which shall be administered by a board comprised of 4 members from the Delaware Standardbred Owners Association, 1 member from the Standardbred Breeders and Owners of Delaware, Inc., 1 member from each video lottery agent licensed to conduct harness racing meets under Chapter 100 of Title 3, 1 member appointed by the Speaker of House of the General Assembly, 1 member appointed by the President Pro Tempore of the Senate of the General Assembly, the Secretary of Agriculture or the Secretary's designee, and the Secretary of Finance or the Secretary's designee. Members shall be chosen by the organizations they represent, and shall serve 4-year terms except that 4 of the initial board selected by the members of the Delaware Standardbred Owners Association shall serve an initial term of 2 years, and 4 years thereafter. The board created hereunder will present a plan for the administration of the Program to the General Assembly no later than May 15, 1999. This plan, and all subsequent amendments to the plan, shall be subject to the written approval of the Secretary of Agriculture or the Secretary's designee, the Chairman of the Delaware Harness Racing Commission or the Chairman's designee, and the Secretary of Finance or the Secretary's designee. The board shall transmit minutes of all meetings and any proposed actions to the Delaware Harness Racing Commission within 10 days after each meeting. The board shall transmit an annual report detailing the allocation of proceeds from the fund and make available to the State Auditor or the State Auditor's representative such information as may be required to perform an annual audit of funds allocated from the Delaware Standardbred Breeder's Program. In addition to funding special purses for Delaware standardbred horses, the board created hereby may also use the funds dedicated to this Program for advertising, promotion, educational and administrative purposes. Funds dedicated to the Delaware Standardbred Breeder's Program shall not be subject to the 1-year payout requirement of § 10048 of Title 3.

3. For video lottery agents licensed to conduct harness horse racing meets under Chapter 100 of Title 3 on January 1, 1993, such agents, which in the future also conduct horse racing meets under Chapter 101 of Title 3 or Chapter 4 of Title 28, shall be paid and shall pay additional purses (and related administrative expenses of the horse racing association) administered by either the Delaware Thoroughbred Racing Commission or the Delaware Harness Racing Commission, as appropriate, in accordance with the formula set forth in sub-subparagraph 2. of this subparagraph, for races conducted at such agent's racetrack based on the ratio of live horse racing days to total live racing days and live harness horse racing days to total live racing days.

4. For video lottery agents licensed to conduct horse racing meets under Chapter 101 of Title 3 on January 1, 1993, such agents, which in the future also conduct harness horse racing meets under Chapter 100 of Title 3, shall be paid and shall pay additional purses (and related administrative expenses of the horse racing association) administered by either the Delaware Thoroughbred Racing Commission or the Delaware Harness Racing Commission, as appropriate, in accordance with the formula set forth in sub-subparagraph 1. of this subparagraph, for races conducted at such agent's racetrack based on the ratio of live horse racing days to total live racing days and live harness racing days to total live racing days.

c. Commissions to agents. For video lottery agents which are licensed only to conduct thoroughbred horse racing meetings under Chapter 101 of Title 3 or Chapter 4 of Title 28, such agents annually shall be paid and shall pay the sum of \$175,000 plus an additional \$175,000 (which shall be subtracted from the amount such agent is paid and shall pay as additional purses under subsection (b)(3)b.1. of this section) for a total payment of \$350,000 annually, adjusted for inflation by the Delaware Thoroughbred Racing Commission, to the organization which represents the majority of jockeys who are licensed and who regularly ride in Delaware for the purposes of providing health and other welfare benefits to active, disabled and retired jockeys pursuant to reasonable criteria for benefit eligibility. Such jockey organization shall annually provide to the Delaware Thoroughbred Racing Commission a certified financial statement of the expenditures made for the benefits provided under this subsection.

d. Commissions to agents. The portion of such proceeds remaining after the payments required by subparagraphs a., b. and c. of this paragraph shall be paid to such video lottery agent as commission.

(59 Del. Laws, c. 348, § 1; 60 Del. Laws, c. 9, §§ 2, 3; 60 Del. Laws, c. 91, § 1; 60 Del. Laws, c. 92, § 1; 60 Del. Laws, c. 539, § 6; 61 Del. Laws, c. 189, § 1; 66 Del. Laws, c. 367, § 1; 69 Del. Laws, c. 446, § 16; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 253, §§ 6-9; 71 Del. Laws, c. 414, § 8.)

§ 4816. Post-audit of accounts and transactions of Office.

The State Auditor shall conduct a yearly post-audit of all accounts and transactions of the State Lottery Office. The cost of the audit shall be paid out of the State Lottery Fund moneys designated for payment of operating expenses.

(59 Del. Laws, c. 348, § 1.)

§ 4817. Exemption of lottery prizes from state and local taxation.

No state or local taxes of any kind whatsoever shall be imposed upon the proceeds from a prize awarded by the state lottery.

(59 Del. Laws, c. 348, § 1.)

§ 4818. Disclosure of certain information regarding a prize winner.

The name and address of any prize winner under this chapter shall not be disclosed to the public by the State Lottery Office unless permission is given by the prize winner.

(66 Del. Laws, c. 367, § 3.)

§ 4819. Restrictions on location and use of video lottery machines.

(a) Video lottery machines shall only be located within the confines of an existing racetrack property in this State on which was conducted in 1993 either a horse racing meet pursuant to Title 3 or Title 28 or a harness horse racing meet pursuant to Title 3; and provided further, that video lottery machines shall not be located in a hotel, motel or other overnight sleeping facility.

(b) In respect of any pari-mutuel harness racing or pari-mutuel horse racing property the racing operations on which were lawful under any county or municipal zoning ordinance as of January 1, 1993, the use of video lottery machines on such property pursuant to the provisions of this act shall not be deemed to change the character of such lawful land use and such use of video lottery machines shall not be prohibited by any such county or municipal zoning ordinance, including amendments thereto.

(c) Video lottery machines shall be connected to the Lottery's central computer system, and shall not be available for play on Christmas, Easter or between the hours of 2:00 a.m. and 1:00 p.m. on Sundays, or between the hours of 2:00 a.m. and 8:00 a.m. on all other days.

(69 Del. Laws, c. 446, § 18.)

§ 4820. Rights and obligations of director and video lottery agent relating to video lottery machines.

(a) All video lottery machines shall be owned or leased by the State and shall be obtained from manufacturers licensed under § 4805(a)(17) of this title. All video lottery machines shall be leased or purchased under the procedures set forth in § 6922 of this title. Any video lottery agent must file with the Director a copy of any current or proposed agreement or disclose any other relationship between the agent, its parents, subsidiaries, related entities, directors, officers or key employees for the sale, lease, maintenance, repair or other assignment to the agent's facility of video lottery machines, or any other relationship with any vendor, manufacturer or other party which stands to benefit financially from the possession or use of video lottery machines by such agent. Failure to file such information shall constitute grounds for the revocation or suspension of a license.

(b) Upon submission by a video lottery agent of a proposed plan for the lease or purchase of video lottery machines in accordance with procedures to be established by the Director, the Lottery Director shall lease or purchase the number, type and kind of video lottery machines necessary for the efficient and economical operation of the Lottery, or the convenience of the players and in accordance with the plan of the licensee, provided that no more than 1,000 video lottery machines shall be located within the confines of a racetrack property unless the Director approves up to an additional 1,000 for each racetrack property, and further provided that the Director may amend such plan where the Director finds that such amendments are necessary to increase revenues, provided such amendments do not produce reductions in the overall net proceeds from the video lottery, protect the public welfare or ensure the security of the video lottery.

(c) Each video lottery agent shall be responsible for the security and safekeeping of the video lottery machines of which it has physical custody.

(d) The Director shall contract with an independent laboratory to test video lottery machines and related equipment on a periodic basis to ensure that the machines and equipment comply with the requirements of this chapter and any other applicable standards and regulations. The manufacturer, vendor or lessor of such machines and equipment shall pay all costs associated with such testing.

(e) Each video lottery agent shall hold the Director and this State harmless from and defend

and pay for the defense of any and all claims which may be asserted against the Director, the State or the employees thereof, arising from the participation in the video lottery system; specifically excluding, however, any claims arising from the negligence or willful misconduct of the Director, the State or the employees thereof.

(f) Each video lottery agent shall provide access to all records of the licensee and the physical premises of the business or businesses where the video lottery agent's video lottery activities occur for the purpose of monitoring or inspecting the video lottery agent's activities and the video lottery games, video lottery terminals and associated equipment. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title.

(69 Del. Laws, c. 446, § 19; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 253, § 10.)

§ 4821. Decision to forego video lottery.

Any person, corporation or association licensed under Chapter 100 of Title 3 to conduct a harness horse racing meet during 1993 which conducted live harness horse races on 30 days or less during 1993 may forego the opportunity to become a video lottery agent under this chapter. Any such person, corporation or association electing to forego such opportunity shall notify the Director and all other video lottery agents of such decision, and so long as such person, corporation or association conducts live harness horse races on at least 90% of the same number of racing days as were conducted by such person, corporation or association in 1992, and so long as such person, corporation or association maintains and awards an average purse per race which is not less than the average purse per race offered by such person, corporation or association during 1992, then such person, corporation or association shall receive an annual payment of \$100,000 from all video lottery agents licensed under Chapter 101 of Title 3 and \$75,000 from all video lottery agents licensed under Chapter 100 of Title 3 or Chapter 4 of Title 28, such payment to be made on an annual basis commencing 6 months after the 1st customer plays the video lottery and shall continue so long as the video lottery is in operation. Video lottery agents licensed under more than 1 chapter of Title 28 and Title 3 shall only make 1 payment as set forth in the preceding sentence. An election to forego the opportunity to become a video lottery agent shall be effective for 1 year from the date of such election, after which time the licensee making the election may apply for licensure to become a video lottery agent, or may elect to forego such opportunity for an additional 1 year.

(69 Del. Laws, c. 446, § 27.)

§ 4822. Annual crime report.

The State Lottery Office, with the assistance of the Attorney General's Office and the State Bureau of Identification, shall annually provide to the General Assembly a report detailing the crimes that occur within the communities surrounding each racetrack property.

(69 Del. Laws, c. 446, § 28.)

§ 4823. Enforcement.

(a) Whoever violates this chapter or any rule or regulation duly promulgated thereunder, or any condition of a license issued pursuant to § 4805 of this title, or any administrative order issued pursuant to this section, shall be punishable as follows:

(1) If the violation has been completed, by a civil penalty imposed by Superior Court, which shall have jurisdiction of civil penalty actions brought pursuant to this section, of not less than \$1,000 nor more than \$10,000 for each completed violation. Each day of a continued violation shall be considered as a separate violation if, on each such day, the violator has knowledge of the facts constituting the violation and knows or should know that such facts constitute or may constitute a violation. Lack of knowledge regarding such facts or violation shall not be a defense to a continued violation with respect to the first day of its occurrence.

(2) If the violation is continuing or there is a substantial likelihood that it will reoccur, the Director may also seek a temporary restraining order, preliminary injunction or permanent injunction in the Court of Chancery, which shall have jurisdiction of an action for such relief.

(3) In the Director's discretion, the Director may impose an administrative penalty of not more than \$1,000 for each violation. Each day of continued violation shall be considered as a separate violation if the violator has knowledge of the facts constituting the violation and knows or should know that such facts constitute or may constitute a violation. Lack of knowledge regarding such facts or violation shall not be a defense to a continued violation with respect to the first day of its occurrence. Prior to the assessment of an administrative penalty, written notice of the Director's proposal to impose such penalty shall be given to the violator, and the violator shall have 30 days from receipt of such notice to request a public hearing. Any public hearing, if requested, shall be held prior to the imposition of the penalty and shall be governed by § 10125 of this title. If no hearing is timely requested, the proposed penalty shall become final and shall be paid no later than 60 days from receipt of the notice of proposed penalty. Assessment of an administrative penalty shall take into account the circumstances, nature and gravity of the violation, as well as any prior history of violations, the degree of culpability, the economic benefit to the violator resulting from the violation, any economic loss to the State and such other matters as justice may require. In the event of nonpayment of an administrative penalty within 30 days after all legal appeal rights have been waived or otherwise exhausted, a civil action may be brought by the Director in Superior Court for the collection of the penalty, and for interest, from the date payment was due, attorneys' fees and other legal costs and expenses. The validity or amount of such administrative penalty shall not be subject to review in an action to collect the penalty. Any penalty imposed after a public hearing is held pursuant to this subsection shall be appealable to Superior Court, and such appeal shall be governed by § 10142 of this title.

(4) In the Director's discretion, the Director may endeavor to obtain compliance with requirements of this chapter by written administrative order. Such order shall be provided to the responsible party, shall specify the complaint, and propose a time for correction of the violation. It may also provide an opportunity for a public hearing at which the Director shall hear and consider any submission relevant to the violation, corrective action or the deadline for correcting the violation.

(b) The Director shall enforce this chapter.

(c) Any interest, costs or expense collected under this section shall be appropriated to the State Lottery Office to carry out the purposes of this chapter.

(71 Del. Laws, c. 253, § 11.)

§ 8807. Division of Professional Regulation.

(a) The Division of Professional Regulation shall have the powers, duties and functions set forth in this section. The Division shall be responsible for the administrative, ministerial, budgetary, clerical and exclusive investigative functions (including but not limited to the appointment, removal, compensation and duties of employees) as provided by law of the following commissions, boards and agencies, with the exception that the Secretary of the Department of Administrative Services shall not be precluded from entering into a memorandum of understanding with the Secretary of the Department of Health and Social Services for the purpose of allowing employees of the Department of Health and Social Services to function as inspectors, investigators and administrative support for the Board of Pharmacy:

- (1) Board of Accountancy as set forth in Chapter 1 of Title 24;
- (2) Board of Landscape Architecture as set forth in Chapter 2 of Title 24;
- (3) Board of Architects as set forth in Chapter 3 of Title 24;
- (4) Board of Podiatry as set forth in Chapter 5 of Title 24;
- (5) Board of Chiropractic as set forth in Chapter 7 of Title 24;
- (6) Licensing of deadly weapons dealers as set forth in Chapter 9 of Title 24;
- (7) Board of Dental Examiners as set forth in Chapter 11 of Title 24;
- (8) Board of Electrical Examiners as set forth in Chapter 14 of Title 24;
- (9) Commission on Adult Entertainment Establishments as set forth in Chapter 16 of Title 24;
- (10) Board of Medical Practice as set forth in Chapter 17 of Title 24;
- (11) Board of Nursing as set forth in Chapter 19 of Title 24;
- (12) Board of Occupational Therapy Practice as set forth in Chapter 20 of Title 24;
- (13) Board of Examiners in Optometry as set forth in Chapter 21 of Title 24;
- (14) Board of Pharmacy as set forth in Chapter 25 of Title 24;
- (15) Examining Board of Physical Therapists as set forth in Chapter 26 of Title 24;
- (16) Board of Registration for Professional Land Surveyors as set forth in Chapter 27 of Title 24;
- (17) Real Estate Commission as set forth in Chapter 29 of Title 24;
- (18) Board of Professional Counselors as set forth in Chapter 30 of Title 24;
- (19) Board of Funeral Services as set forth in Chapter 31 [repealed] of Title 24;
- (20) Board of Veterinary Medicine as set forth in Chapter 33 of Title 24;
- (21) Board of Examiners of Psychologists as set forth in Chapter 35 of Title 24;
- (22) Board of Geologists as set forth in Chapter 36 of Title 24;
- (23) Board of Examiners of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers as set forth in Chapter 37 of Title 24;
- (24) Board of Clinical Social Work Examiners, as set forth in Chapter 39 of Title 24;
- (25) Board of Cosmetology and Barbering as set forth in Chapter 51 of Title 24;
- (26) Board of Examiners of Nursing Home Administrators as set forth in Chapter 52 of Title 24;
- (27) Board of Pilot Commissioners as set forth in Chapter 1 of Title 23;
- (28) Committee of Dietetics/Nutrition as set forth in Chapter 38 of Title 24;
- (29) Board of Massage and Bodywork, as set forth in Chapter 53 of Title 24;
- (30) Gaming Control Board as set forth in Chapter 15 of Title 28; and
- (31) Board of Plumbing Examiners, as set forth in Chapter 18 of Title 24.

(b) The Division of Professional Regulation shall have the following powers, duties and functions related to the regulation of boxing. It shall:

- (1) Promulgate and enforce rules and regulations for the conduct of professional and amateur boxing matches or exhibitions for which a fee is charged. The Division shall consult with members of the medical profession on health-related matters in the promulgation of health-related regulations;
- (2) Issue licenses and permits for amateur and professional boxing exhibitions for which a fee is charged. The Division shall have the power to suspend or revoke any license in the interest and protection of the public health, safety and welfare;
- (3) Determine whether a bond shall be posted, the amount of any bond and all other

conditions relative to such posting or to any waiver or exclusion from posting a bond;

(4) Designate an agent to act on behalf of the Division who shall, at all times during any boxing match, be the person present representing the State, and exercising its regulatory powers over all persons involved with the match including the authority to veto the decisions of others for good cause, and the authority to halt any match or all matches in the interest of the public health, safety or welfare.

(c) The Division of Professional Regulation, with the approval of the Secretary of Administrative Services, shall establish, for all commissions, boards and agencies and activities administered pursuant to this section, such appropriate fees as shall approximate and reasonably reflect all costs necessary to defray the expenses of each such board or commission, or of the Division on behalf of such board or commission. There shall be a separate fee charged for each service or activity, but no fee shall be charged for a purpose not specified in the appropriate chapter of the Delaware Code. No application fee shall be combined with any other fee or charge. At the beginning of each calendar year the Division of Professional Regulation, or any other state agency acting in its behalf, shall compute for each separate service or activity, the appropriate fees for each agency. All revenue generated by any of the activities performed by or on behalf of the boards or commissions listed in this chapter shall be deposited in an appropriated special fund account in the Division of Professional Regulation. These funds shall be used to fund all costs necessary to defray the expenses of each board or commission or of the Division on behalf of such board or commission, up to the budget authority for any fiscal year or portion thereof.

(d) The Division of Professional Regulation shall have the following powers, duties and functions relating to the administration of examinations for all boards, commissions and other agencies listed in this section:

(1) To designate, approve, arrange for and contract for an examination site, for each examination held by such agency;

(2) To deposit all fees received for testing into a special account to be used for the sole purpose of covering the costs of all agency examinations, including test validation;

(3) To pay examination services and other expenses directly related to the administration of examinations;

(4) To review, approve and execute all contracts for examination services;

(5) Review and approve, subject to Sunset Committee review, the content and validity of any examination written, developed or used by a board or commission listed in this section; and

(6) Supervise the administration and proctoring of all tests for all boards and commissions.

(e) The Division of Professional Regulation shall establish a uniform policy for the reimbursement of expenses for members of all boards and commissions listed in this section, which policy shall be set forth in the Division's rules and regulations. In establishing this policy, the Director of Professional Regulation may consider the limits of available appropriations and the need to allocate travel funds for board and commission representation at appropriate national or regional meetings of state professional regulatory boards. In addition to the rate of compensation established in the Delaware Code for each board or commission, each member of a board or commission listed in this section may receive reimbursement or partial reimbursement for necessary expenses to attend meetings. Such expenses shall not exceed the mileage rate paid to state employees, per mile actually traveled, or the cost of public transportation and no more than \$10 per meeting for all other miscellaneous expenses.

(f) The Division of Professional Regulation shall establish policies governing the appropriate times, locations and notice for meetings and public hearings of all boards and commissions listed in this section so as to promote public participation. Such policies shall be set forth in the rules and regulations of the Division. Meetings and hearings may only take place in facilities approved by the Division.

(g) The Director of Professional Regulation shall ensure that all regulatory actions taken by boards and commissions listed in this section are in conformance with the Administrative Procedures Act and the Freedom of Information Act. The Director shall review and approve all legal notices, public notices and agendas for conformance with these requirements.

(h) The following procedure shall be followed for the investigation of complaints against licensees of boards, agencies and commissions listed in subsection (a) of this section and otherwise regulated by the Division of Professional Regulation:

(1) Any person who desires to file a complaint against any licensee regulated by a board, commission or agency covered pursuant to this chapter must do so in writing.

(2) The complaint shall state the name of the licensee and sufficient facts as determined by the Division which allegedly constitute the basis for the written complaint. If any of these elements are missing in the written complaint, the Division of Professional Regulation may, in its discretion, sua sponte dismiss the complaint.

(3) The complaint shall be filed with the Director of the Division. The Director shall, within 15 days of the receipt of the complaint, fill out a complaint card, assign a complaint number and log the complaint in the Division of Professional Regulation's records. A record of the complaint shall be kept with the Division for a period of 5 years. The Division shall also assign an investigator employed by the Division to investigate the complaint after this procedure is complied with.

(4) The Division of Professional Regulation shall thereafter mail a copy of the complaint to the licensee named in the complaint at the licensee's address of record in the Division's files. The named licensee, if the licensee chooses, may file an answer to the complaint within 20 calendar days with the Division.

(5) The Division shall, thereafter, provide a copy of the complaint to the board, commission or agency which regulates the named licensee in the complaint. The board, agency, or commission shall maintain a record of the same.

(6) At the board, agency or commission's next regularly scheduled meeting, it may assign a board member to assist the Division with the investigation of the complaint. This board member shall maintain strict confidentiality of the facts of the investigation and shall not discuss any issue of fact or law of the investigation with any other board member or the public. In addition, if a hearing is held, the investigating board member shall excuse himself or herself as a board member but may otherwise assist in the presentation of the complaint before the board.

(7) The investigator assigned by the Division of Professional Regulation shall direct the investigation of the complaint but shall maintain contact with the investigating board member regarding the investigation. The investigator shall issue a final report at the conclusion of the investigator's investigation. The report shall list the evidence reviewed, the witnesses interviewed and cite the law or regulation alleged to have been violated and the facts to support such finding. The report shall contain a written recommendation to either prosecute or dismiss the complaint approved by the Director of the Division of Professional Regulation.

(8) The investigator may forward the complaint and written report to the Department of Justice for review by a Deputy Attorney General. If deemed warranted, the Deputy Attorney General may file a formal written complaint against the named licensee with the board, commission or agency which regulates the licensee and request a hearing before the board, commission or agency. If the Deputy Attorney General assigned to the case recommends not to prosecute or otherwise not file a formal complaint, the Deputy Attorney General shall notify the Director of Professional Regulation in writing.

(9) If the Deputy Attorney General assigned to the case recommends dismissal or no prosecution, the Division shall, thereafter, dismiss the complaint which shall constitute a final order. The Division shall, thereafter, file a copy of the Attorney General's recommendation and an investigator's report with the board, commission or agency which regulates the licensee for informational purposes only.

(10) The Division Director or the Division Director's designee is empowered to issue subpoenas for named respondents, witnesses, documents, physical evidence or any other source of evidence needed during the investigation of the complaint and/or for a public hearing on the complaint. If the party or person subpoenaed fails to comply, the Division may compel compliance with said subpoena by filing a motion to compel in the Superior Court which shall have jurisdiction. The Superior Court may order costs, attorney's fees and/or a civil fine not to exceed \$1,000 if the motion to compel is granted.

(i) This chapter does not preclude a commission, board or agency under the jurisdiction of this section from, if its enabling legislation so provides, revoking or immediately suspending a practitioner's license if the Board finds the health, welfare and safety of the public is in immediate or imminent danger.

(j) This chapter shall supercede any provisions of any commission, board or agency's procedures named in this section, except the Board of Medical Practice, for handling complaints against practitioners prior to July 20, 1989.

(k) The Division of Professional Regulation shall provide at least once every fiscal year training to members appointed to the regulatory boards listed in subsection (a) of this section. The training shall outline the legal responsibilities of Board members to protect the health, safety and welfare of the general public.

(l) The provisions of § 516(g) and § 2216 of Title 13 shall supersede any provisions of this section to the contrary and any provisions or procedures, by statute or regulation, of any commission, board or agency named in this section with respect to matters involving any applicant or licensee under § 516(g) or § 2216 of Title 13. Upon receipt of notification from the Family Court pursuant to § 516(g) of Title 13, or notice from the Director of the Division of Child Support Enforcement pursuant to § 2216 of Title 13 regarding a licensee or applicant, the Director of the Division of Professional Regulation shall forthwith suspend, or deny to such licensee or applicant the issuance or renewal of, any license, permit, certificate, approval, registration or other similar form of permission or authorization to practice or engage in any profession, occupation or business of any commission, board or agency named in this section (but not including any license issued on behalf of a non-profit applicant by the Gaming Control Board as set forth in Chapter 15 of Title 28).

(m) The social security number of the applicant shall be included on the application for issuance or renewal of any license, permit, certificate, approval, registration or other similar form of permission or authorization to practice or engage in any profession, occupation or business of any commission, board or agency named in this section (but not including any license issued on behalf of a nonprofit applicant by the Gaming Control Board as set forth in Chapter 15 of Title 28).

(n) Unless otherwise provided by law, any Board within the Division of Professional Regulation may adopt through its rules and regulations the Voluntary Treatment Option for Chemically Dependent or Impaired Professionals for the treatment of chemically dependent or impaired persons regulated by such Board. The Voluntary Treatment Option for Chemically Dependent or Impaired Professionals shall be available to a regulated professional of a participating Board, provided the regulated professional has not committed any offense, other than the status of being chemically dependent or impaired, which otherwise constitutes a ground for discipline under applicable laws governing the regulated professional. The participating Board may defer and ultimately take no disciplinary action with regard to an eligible chemically dependent or impaired regulated professional who voluntarily signs an agreement, in a form satisfactory to the participating Board, agreeing to the terms and conditions specified in the Voluntary Treatment Option. The Board, where it deems appropriate, may proceed with disciplinary action with regard to a disciplinary offense alleged to have occurred prior to the professional's entry into the Voluntary Treatment Option. Any person regulated by a participating Board may refer himself/herself into this Voluntary Treatment Option. Any member of the public, or member of the participating professions regulated by the Division of Professional Regulation, may make a written report, signed by the complainant, of chemical dependency or impairment affecting any person regulated by a participating Board within the Division of Professional Regulation to the appropriate Board chairperson, her or his designate, or designates, or directly to the Director of the Division of Professional Regulation or his/her designate. Failure to provide such a report may be considered grounds for disciplinary action against a regulated professional so failing to report, if such grounds for disciplinary action are provided in the participating Board's statutes, rules or regulations. When a report is received indicating that a regulated professional of a participating Board may be chemically dependent or impaired, the Boards or Commissions subject to this Voluntary Treatment Option for Chemically Dependent or Impaired Professionals shall follow the following procedures:

(1) If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

(2) The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

(3) In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

(4) A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

(5) Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection (h) of this section.

(6) The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

a. Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

b. Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

c. Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

d. Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on

behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

e. Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

f. Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

(7) The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

(8) The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

(9) If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

(10) Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

(11) Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

(12) Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

(29 Del. C. 1953, § 8808; 57 Del. Laws, c. 581, § 1; 60 Del. Laws, c. 511, § 64; 60 Del. Laws, c. 716, § 1; 60 Del. Laws, c. 722, § 3; 62 Del. Laws, c. 68, § 114; 62 Del. Laws, c. 86, § 9; 62 Del. Laws, c. 277, § 57; 63 Del. Laws, c. 150, § 2; 63 Del. Laws, c. 195, § 1C; 65 Del. Laws, c. 172, § 3; 65 Del. Laws, c. 355, §§ 1-5; 66 Del. Laws, c. 85, § 124; 66 Del. Laws, c. 105, § 9; 66 Del. Laws, c. 128, § 3; 66 Del. Laws, c. 303, § 261(b); 66 Del. Laws, c. 402, § 1; 67 Del. Laws, c. 144, §§ 6-8; 67 Del. Laws, c. 365, § 1; 67 Del. Laws, c. 369, § 1; 68 Del. Laws, c. 84, § 173(b); 68 Del. Laws, c. 132, § 1; 68 Del. Laws, c. 236, § 2; 68 Del. Laws, c. 290, § 103; 69 Del. Laws, c. 306, § 2; 70 Del. Laws, c. 143, § 2; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 196, § 1; 70 Del. Laws, c. 242, § 2; 70 Del. Laws, c. 452, § 11; 70 Del. Laws, c. 582, § 2; 71 Del. Laws, c. 138, § 16; 71 Del. Laws, c. 185, § 2; 71 Del. Laws, c. 216, §§ 55, 89; 71 Del. Laws, c. 298, § 5; 71 Del. Laws, c. 303, § 1; 71 Del. Laws, c. 460, § 5.)

CHAPTER 101. ADMINISTRATIVE PROCEDURES

Subchapter I. Policy and Definitions

§ 10101. Policy.

The purpose of this chapter is to standardize the procedures and methods whereby certain state agencies exercise their statutory powers and to specify the manner and extent to which action by such agencies may be subjected to public comment and judicial review.

(43) Committee of Dietetics/Nutrition;

(44) Foster Care Review Board;

(45) Election Commissioner; and

(46) Board of Plumbing Examiners.

(b) All agencies which are not listed in subsection (a) of this section shall only be subject to subchapters I and II of this chapter and §§ 10141, 10144 and 10145 of this title.

(60 Del. Laws, c. 585, § 1; 62 Del. Laws, c. 301, § 2; 63 Del. Laws, c. 460, § 15; 63 Del. Laws, c. 461, § 18; 63 Del. Laws, c. 462, § 3; 64 Del. Laws, c. 1, § 2; 64 Del. Laws, c. 39, § 2; 64 Del. Laws, c. 161, § 1; 64 Del. Laws, c. 413, § 4; 64 Del. Laws, c. 476, § 9; 64 Del. Laws, c. 477, § 5; 64 Del. Laws, c. 483, § 2; 65 Del. Laws, c. 172, § 2; 65 Del. Laws, c. 228, § 7; 65 Del. Laws, c. 238, § 1; 65 Del. Laws, c. 378, § 6; 65 Del. Laws, c. 416, § 1; 66 Del. Laws, c. 105, § 10; 66 Del. Laws, c. 128, § 2; 67 Del. Laws, c. 144, § 9; 67 Del. Laws, c. 449, § 2; 68 Del. Laws, c. 297, § 1; 69 Del. Laws, c. 107, § 1; 69 Del. Laws, c. 306, § 3; 70 Del. Laws, c. 143, § 3; 70 Del. Laws, c. 582, §§ 3, 4; 71 Del. Laws, c. 185, § 3; 71 Del. Laws, c. 296, § 18; 71 Del. Laws, c. 298, § 4.)

Subchapter IV. Licenses

§ 10131. Hearings; notice.

(a) Hearings relating to licenses may be held at a time fixed in the discretion of the agency unless timely requested by a party or required by law or regulation.

(b) Whenever an agency proposes to grant, renew or extend a license, it may do so without notice unless a law or regulation requires notice and opportunity for a hearing.

(c) Whenever an agency proposes to deny an application for a license, timely and properly made, or to revoke, suspend, annul or withdraw a license or where it is required by law or regulation to give notice, it shall first give written notice to the licensee or applicant of the intended action and the reasons therefor. The form of the notice shall comply as far as practicable with § 10122 of this title, except that instead of setting a hearing date, it may afford the party at least 10 days to request a hearing.

(d) Notice of a hearing shall be given at least 20 days before the day it is to be held.

(60 Del. Laws, c. 585, § 1; 62 Del. Laws, c. 301, § 2.)

§ 10132. Effective date of agency's action.

(a) Whenever an application is made to renew a license or for a new license for an activity of a continuing nature, the activity does not become illegal until the application has been finally denied by the agency.

(b) Whenever an agency proposes to revoke, suspend, annul or withdraw a license, such action shall not be effective until a final order is issued, except when the public health, safety or welfare clearly requires emergency action and the agency's order so states.

(60 Del. Laws, c. 585, § 1; 62 Del. Laws, c. 301, § 2.)

§ 10133. Withholding or denying licenses.

No license or renewal for which proper and timely application has been made shall be withheld or denied except for failure of the applicant to comply with the applicable laws and regulations.

(60 Del. Laws, c. 585, § 1; 62 Del. Laws, c. 301, § 2.)

§ 10134. Revoking, suspending, annulling or withdrawing licenses.

No license shall be revoked, suspended, annulled or withdrawn unless the licensee fails to comply with the lawful requirements for retention of such license.

(60 Del. Laws, c. 585, § 1; 62 Del. Laws, c. 301, § 2.)

Subchapter VII. Application of Chapter

§ 10161. State agencies affected.

(a) This chapter shall apply only to the following agencies:

- (1) Alcoholic Beverage Control Commission;
- (2) State Banking Commissioner;
- (3) Public Service Commission;
- (4) Real Estate Commission;
- (5) State Human Relations Commission;
- (6) Tax Appeal Board;
- (7) State Insurance Commissioner;
- (8) Industrial Accident Board;
- (9) Environmental Appeals Board;
- (10) Coastal Zone Industrial Control Board;
- (11) State Board of Education;
- (12) State Personnel Commission;
- (13) Board of Veterinary Medicine;
- (14) Board of Landscape Architecture;
- (15) Board of Clinical Social Work Examiners;
- (16) Board of Architects;
- (17) Board of Podiatry;
- (18) Board of Pilot Commissioners;
- (19) Board of Chiropractic;
- (20) State Board of Electrical Examiners;

- (21) Board of Medical Practice;
 - (22) Council of the Delaware Association of Professional Engineers;
 - (23) Board of Occupational Therapy Practice;
 - (24) Division of Child Support Enforcement;
 - (25) Board of Professional Counselors;
 - (26) Board of Dental Examiners;
 - (27) Board of Nursing;
 - (28) Board of Examiners in Optometry;
 - (29) Board of Examiners of Psychologists;
 - (30) Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers;
 - (31) Board of Registration for Professional Land Surveyors;
 - (32) Board of Accountancy;
 - (33) Board of Pharmacy;
 - (34) Board of Geologists;
 - (35) Board of Cosmetology;
 - (36) Commission on Adult Entertainment Establishments;
 - (37) Board of Physical Therapy;
 - (38) Real Estate Commission;
 - (39) Board of Funeral Services;
 - (40) Board of Examiners of Nursing Home Administrators;
 - (41) Delaware Gaming Control Board;
 - (42) Board of Massage and Bodywork;
 - (43) Committee of Dietetics/Nutrition;
 - (44) Foster Care Review Board;
 - (45) Election Commissioner; and
 - (46) Board of Plumbing Examiners.
- (b) All agencies which are not listed in subsection (a) of this section shall only be subject to subchapters I and II of this chapter and §§ 10141, 10144 and 10145 of this title.

(60 Del. Laws, c. 585, § 1; 62 Del. Laws, c. 301, § 2; 63 Del. Laws, c. 460, § 15; 63 Del. Laws, c. 461, § 18; 63 Del. Laws, c. 462, § 3; 64 Del. Laws, c. 1, § 2; 64 Del. Laws, c. 39, § 2; 64 Del. Laws, c. 161, § 1; 64 Del. Laws, c. 413, § 4; 64 Del. Laws, c. 476, § 9; 64 Del. Laws, c. 477, § 5; 64 Del. Laws, c. 483, § 2; 65 Del. Laws, c. 172, § 2; 65 Del. Laws, c. 228, § 7; 65 Del. Laws, c. 238, § 1; 65 Del. Laws, c. 378, § 6; 65 Del. Laws, c. 416, § 1; 66 Del. Laws, c. 105, § 10; 66 Del. Laws, c. 128, § 2; 67 Del. Laws, c. 144, § 9; 67 Del. Laws, c. 449, § 2; 68 Del. Laws, c. 297, § 1; 69 Del. Laws, c. 107, § 1; 69 Del. Laws, c. 306, § 3; 70 Del. Laws, c. 143, § 3; 70 Del. Laws, c. 582, §§ 3, 4; 71 Del. Laws, c. 185, § 3; 71 Del. Laws, c. 296, § 18; 71 Del. Laws, c. 298, § 4.)

§ 17. Lotteries and other gambling.

Section 17. All forms of gambling are prohibited in this State except the following:

- (a) Lotteries under State control for the purpose of raising funds,
- (b) Lotteries (other than slot machines, roulette, craps and baccarat games) provided that each is sponsored and conducted under the limitations of Section 17B by companies, organizations or societies which have been in existence for at least 2 years; provided, however, that no person who shall not have attained the age of 18 years shall participate in any lottery (where money is the prize) otherwise authorized by the article,
- (c) Wagering or betting by the use of pari-mutuel machines or totalizators on horse races conducted at racetracks within or without the State, provided that such wagering or betting may be conducted only either:

- (1) within the enclosure of any racetrack licensed under the laws of the State to conduct a race meeting, or
 - (2) within the enclosure of any racetrack licensed under the laws of the State to receive and accept wagers or bets on electronically televised simulcasts of horse races.
 - (d) Bingo games as conducted under the limitations of Section 17A.
- The General Assembly shall enforce this Section by appropriate legislation.

(40 Del. Laws, c. 1; 59 Del. Laws, c. 143, § 1; 64 Del. Laws, c. 54; 68 Del. Laws, c. 4.)

§ 17A. Bingo games; organizations authorized to conduct; submission to referendum; districts; regulation; penalties.

Section 17A. The game of Bingo shall be lawful when sponsored and conducted by Volunteer Fire Companies, Veterans' Organizations, Religious or Charitable Organizations, or by Fraternal Societies provided the net receipts or profits arising from the conducting or operating of such Bingo games by the aforementioned Companies, Organizations, or Societies are used solely for the promotion or achievement of the purposes of such Companies, Organizations, or Societies, and provided further that the aforementioned Companies, Organizations or Societies are operated in a manner so as to come within the provisions of Section 170 of the U. S. Revenue Code and Regulations promulgated thereunder by the U. S. Secretary of the Treasury.

1. The General Assembly shall provide by law for the submission to the vote of the qualified electors of the several districts of the State, or any of them, mentioned in subparagraph 2 of Section 17A of this article at the General Election held in 1958, the question whether the playing of the game of "Bingo" shall be licensed or prohibited within the limits thereof; and in every district in which there is a majority against license, no organization, mentioned in Section 17A, shall thereafter sponsor or permit the playing of "Bingo", within said district, until at a subsequent submission of such question a majority of votes shall be cast in said district for license. Whenever a majority of all the members elected to each House of the General Assembly by the qualified electors in any district named in subparagraph 2 of Section 17A of this Article shall request the submission of the question of license or no license to a vote of the qualified electors in said district, the General Assembly shall provide for the submission of such question to the qualified electors in such district at the next general election thereafter.

2. Under the provisions of this Article, Sussex County shall comprise one district, Kent County shall comprise one district, the City of Wilmington, as its corporate limits now are or may hereafter be extended, one district, and the remaining part of New Castle County, one district.

3. The General Assembly shall provide necessary laws to carry out and enforce the provisions of this Article, enact laws governing the game of "Bingo" under the limitations of this Article, and may provide such penalties as may be necessary to enforce same.

(Added 51 Del. Laws, c. 61.)

§ 17B. Lotteries not under State control; organizations authorized to conduct; submission to referendum; districts; regulation; penalties.

Section 17B. Lotteries not under State control shall be lawful when sponsored and conducted by volunteer fire companies, veterans organizations, religious or charitable

organizations, or by fraternal societies provided that said company, organization or society has been in existence a minimum of 2 years and provided the net receipts or profits arising from the conducting or operating of such lotteries by the aforementioned companies, organizations or societies are used solely for the promotion or achievement of the purposes of such companies, organizations or societies, and provided further that the aforementioned companies, organizations or societies are operated in a manner so as to come within § 170 of the United States Revenue Code and regulations promulgated thereunder by the United States Secretary of the Treasury.

1. The General Assembly shall provide by law for the submission to the vote of the qualified electors of the several districts of the State, or any of them, mentioned in paragraph 2 of this section at the general election held in 1984, the question whether the playing of lotteries not under State control shall be licensed or prohibited within the limits thereof; and in every district in which there is a majority against license, no organization, mentioned in this section, shall thereafter sponsor or permit lotteries not under State control, within said district, until at a subsequent submission of such question a majority of votes shall be cast in said district for license. Whenever a majority of all the members elected to each House of the General Assembly by the qualified electors in any district named in paragraph 2 of this section shall request the submission of the question of license or no license to a vote of the qualified electors in said district, the General Assembly shall provide for the submission of such question to the qualified electors in such district at the next general election thereafter.
2. Under this article, Sussex County shall comprise 1 district, Kent County shall comprise 1 district, the City of Wilmington, as its corporate limits now are or may hereafter be extended, 1 district, and the remaining part of New Castle County, 1 district.
3. The General Assembly shall enact comprehensive legislation providing for licensing for all organizations conducting and regulating the conduct of lotteries under this section and may provide such penalties as may be necessary to enforce such legislation.

(64 Del. Laws, c. 54.)