

IN THE SUPREME COURT OF PENNSYLVANIA

50 MAP 2024

**IN RE: THREE PENNSYLVANIA SKILL AMUSEMENT DEVICES, ONE
GREEN BANK BAG CONTAINING \$525.00 IN U.S. CURRENCY, AND
SEVEN RECEIPTS**

APPEAL OF: COMMONWEALTH OF PENNSYLVANIA

**APPLICATION TO INTERVENE BY SKILL GAMES BUSINESS
CONSORTIUM**

Appeal from a Final Order of the Commonwealth Court Docket No. 707 CD 2023,
Affirming an Order of the Dauphin County Court of Common Pleas, entered
March 23, 2023, Docket No. 2022-CV-06333-MD

MAURICE A. NERNBERG, JR. ESQ.
PA I.D. No. 127
Nernberg & Lyons
301 Smithfield Street
Pittsburgh, PA 15222
(412) 232-0334
*Counsel for Proposed-Intervenor
Petitioners Skill Games Business
Consortium*

JOHN P. CORCORAN, JR., ESQ.
PA. I.D. No. 74906
Jones, Gregg, Creehan & Gerace, LLP
20 Stanwix Street, Suite 1100
Pittsburgh, PA. 15219
412-261-6400
jpc@jgcg.com
*Counsel for Proposed-Intervenor
Petitioners Skill Games Business
Consortium*

**APPLICATION TO INTERVENE BY SKILL GAMES BUSINESS
CONSORTIUM**

Proposed Intervenor, the Skill Games Business Consortium (“Consortium”), by and through their undersigned counsel, hereby move to intervene as Petitioners in the above-captioned proceeding under Rule 2328 of the Pennsylvania Rules of Civil Procedure.

In support of this Application, the Consortium submits a:

- 1) Memorandum of Law in Support of Application to Intervene by the Skill Games Business Consortium, which is filed contemporaneously herewith;
- 2) Proposed Petition for Extension of the Stay, which the Consortium will file in this action if permitted to intervene, as attached as Exhibit “A”;
- 3) Proposed Order, granting this Application, is attached as Exhibit "B”;

WHEREFORE, the Consortium respectfully requests that the Court GRANT this Application to Intervene and allow the Consortium to intervene as petitioners in this action.

Dated: October 5, 2026

Respectfully submitted,

/s/ Maurice A. Nernberg, Jr., Esq.
MAURICE A. NERNBERG, JR. ESQ.
PA I.D. No. 127
Nernberg & Lyons
301 Smithfield Street
Pittsburgh, PA 15222

/s/ John P. Corcoran, Jr., Esq.
JOHN P. CORCORAN, JR., ESQ.
PA. I.D. No. 74906
Jones, Gregg, Creehan & Gerace, LLP
20 Stanwix Street, Suite 1100
Pittsburgh, PA. 15219

(412) 232-0334

*Counsel for Proposed-Intervenor
Petitioners Skill Games Business
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CERTIFICATE OF COMPLIANCE – Confidentiality

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Court that require filing of confidential information and documents differently than non-confidential information and documents.

/s/ John P. Corcoran, Jr., Esq._____

John P. Corcoran, Jr., Esquire

Counsel for Potential Intervenor, Skill
Games Business Consortium

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Application to Intervene was served on all counsel and/or parties of record via the Electronic Filing System of this Court.

/s/ John P. Corcoran, Jr., Esq. _____
John P. Corcoran, Jr., Esquire
Counsel for Potential Intervenor, Skill
Games Business Consortium

Dated: October 5, 2026

EXHIBIT

A

IN THE SUPREME COURT OF PENNSYLVANIA

50 MAP 2024

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APPEAL OF: COMMONWEALTH OF PENNSYLVANIA

**PETITION FOR EXTENSION OF STAY
BY INTERVENOR SKILL GAMES BUSINESS CONSORTIUM**

Appeal from a Final Order of the Commonwealth Court Docket No. 707 CD 2023,
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March 23, 2023, Docket No. 2022-CV-06333-MD

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PA I.D. No. 127
Nernberg & Lyons
301 Smithfield Street
Pittsburgh, PA 15222
(412) 232-0334
*Counsel for Intervenor Petitioners Skill
Games Business Consortium*

JOHN P. CORCORAN, JR., ESQ.
PA. I.D. No. 74906
Jones, Gregg, Creehan & Gerace, LLP
20 Stanwix Street, Suite 1100
Pittsburgh, PA. 15219
412-261-6400
jpc@jgceg.com
*Counsel for Intervenor Petitioners Skill
Games Business Consortium*

**PETITION FOR EXTENSION OF STAY
BY INTERVENOR SKILL GAMES BUSINESS CONSORTIUM**

Intervenor, the Skill Games Business Consortium (“Consortium”), by and through their undersigned counsel, hereby respectfully requests this Honorable Court to extend the stay of its previously entered stay for an additional 120 days for the following reasons:

1. On June 15, 2026, the Court entered its Order in the above captioned case reversing the Order of the Commonwealth Court and remanded the matter for further proceedings consistent with the Court’s opinion.

2. In doing so, the Court found that skill game machines are subject to the Gaming Act and therefore subject to 18 Pa. C. S. § 5513.

3. Nonetheless, [We are] “mindful of the potential disturbance that our correction of the prevailing case law may cause to business owners and other good-faith participations in the industry. We thus stay our order for a period of 120 days.” *Three Pa. Skill Amusement Devices v. Dep’t of Revenue*, 358 A.3d 385 (Pa. 2026).

4. The 120th day from the Court’s Order is October 13, 2026.

5. Intervenor can report that the General Assembly has been working to implement legislation to regulate skill games. Each Chamber has drafted its own version of a regulatory statute of skill games. Senate Bill 626 would regulate skill

games and is currently in the Committee for Community Economic and Recreational Development.¹ House Bills 2213², 2557³, 2795⁴, 2801⁵, and 2802⁶ are also regulatory statutes for skill games and are all currently in the Committee for Gaming Oversight. Clearly, the General Assembly is still working to find a suitable compromise to resolve the issue. Given the volume of bills concerning skill games, and the limited number of days the General Assembly will be in session until October 13, 2026, Intervenor is concerned that there will not be enough time for the General Assembly to act.

6. For this reason, Intervenor requests that the Court extend the current stay of its mandate for an additional 120 days.

7. Importantly, no party will suffer any prejudice as a result of extending the stay because it is within everyone's best interests that the General Assembly be given enough time to enact appropriate legislation and avoid the chaos, both economic and practical, that will result from any state-wide seizures of skill games.

¹ See Senate Bill 626, Bill Information, <https://www.palegis.us/legislation/bills/2025/sb626>, last visited August 28, 2026.

² See House Bill 2213, Bill Information, <https://www.palegis.us/legislation/bills/2025/hb2213>, last visited August 28, 2026.

³ See House Bill 2557, Bill Information, <https://www.palegis.us/legislation/bills/2025/hb2557>, last visited August 28, 2026.

⁴ See House Bill 2795, Bill Information, <https://www.palegis.us/legislation/bills/2025/hb2795>, last visited September 25, 2026.

⁵ See House Bill 2801, Bill Information, <https://www.palegis.us/legislation/bills/2025/hb2801>, last visited September 25, 2026.

⁶ See House Bill 2802, Bill Information, <https://www.palegis.us/legislation/bills/2025/hb2802>, last visited September 25, 2026.

8. Conversely, as this Court previously indicated when it provided for the initial 120-day stay, numerous individuals, small bar and restaurant owners, local VFWs and American Legions^{7, 8}, local organizations⁹, etc., who have come to rely on the revenue from these skill machines for their economic survival, in addition to the municipalities which generate significant revenue from the licensing fees associated with skill games, will suffer a dramatic adverse financial impact if this Court's Order goes into effect before the legislature is able to act.

9. In addition to that financial impact, if this Court's Order goes into effect, but then the legislature acts shortly thereafter, in the interim, law-abiding citizens and businesses might find themselves subject to criminal citations simply for having skill games on their premises, even if not in use, as it will be a herculean task for the vendors of these skill games to recover and store all of the skill games that are currently being utilized throughout the Commonwealth. The ensuing litigation, both civil and criminal, would be extensive.

⁷ James Corrigan, *Veterans sound alarm over regulation of Pennsylvania skill games*, Fox 43 (June 21, 2026), <https://www.fox43.com/article/news/politics/pennsylvania-skill-games-supreme-court-veterans-vfw-american-legion-revenue/521-caeb0729-bfc7-418a-a22d-54bd0e855300>.

⁸ Andrew Klein, *VFWs fear shutdown if skill game tax is enacted*, Local 21 News (Sept. 25, 2026), <https://local21news.com/news/local/vfas-fear-shutdown-if-skill-game-tax-is-enacted-veterans-slot-machines-shapiro-pa-money-gas-stations-funding-casino>.

⁹ Ember Duke, *Alle-Kiski Valley small business owner, fire department press Harrisburg to make skill games legal again*, TRIBLIVE (Aug. 26, 2026), <https://triblive.com/local/valley-news-dispatch/alle-kiski-valley-small-business-owner-fire-department-press-harrisburg-to-make-skill-games-legal-again/>.

10. The Petitioners understand that this Petition is being filed perilously close to the deadline set by this Court, but that is because the Petitioners believed that the legislature would act before the deadline set by this Court and, in fact, multiple pieces of legislation are making their way through the legislature, including one to extend the deadline, but Petitioners are concerned that there simply is not enough time.

11. In addition, both the Pennsylvania State Police and the Pennsylvania Attorney General's office have issued directives, attached hereto as Exhibit "A", indicating that the skill games currently in use and placed throughout the Commonwealth will be subject to immediate seizure and the purveyors thereof subject to criminal liability once this Court's stay expires. The Petitioners are in the process of removing those machines and/or rendering them inoperable, but the likelihood of otherwise law-abiding, tax-paying citizens and businesses being caught off guard in all of the uncertainty is significant.

WHEREFORE, for the foregoing reasons, the Skill Games Business Consortium respectfully requests that the stay entered on June 15, 2026, be extended for an additional 120 days.

Dated: _____, 2026

Respectfully submitted,

/s/ Maurice A. Nernberg, Jr., Esq. _____
MAURICE A. NERNBERG, JR. ESQ.
PA I.D. No. 127

/s/ John P. Corcoran, Jr., Esq. _____
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John P. Corcoran, Jr., Esquire
Counsel for Intervenor/Petitioner, Skill
Games Business Consortium

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Petition for Extension of Stay was served on all counsel and/or parties of record via the Electronic Filing System of this Court.

John P. Corcoran, Jr., Esquire
Counsel for Intervenor/Petitioner, Skill
Games Business Consortium

Dated: _____, 2026

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL



Date: September 3, 2026

To: Kelly Callihan, Executive Director, Pennsylvania District Attorneys Association

From: Brendan O'Malley, Chief Counsel, Pennsylvania State Police
Christopher Herrington, Deputy Chief Counsel, Pennsylvania State Police

Re: Slot Machine Enforcement

On June 15, 2026, the Supreme Court of Pennsylvania (SCOPA) changed how so-called "skill games," and even traditional gambling devices, are evaluated under Pennsylvania law. In sum, SCOPA determined that such devices are slot machines, as defined in the Gaming Act, and are subject to seizure. This document describes the change in the law and provides a framework for inspecting such devices to determine whether they meet the definition of a slot machine and are subject to seizure after SCOPA's 120-day stay expires (i.e., October 14, 2026).

"Skill Games" Before and After SCOPA's Decision

Prior to SCOPA's decision, courts used the "predominant factor test" to evaluate whether machines seized by law enforcement constituted gambling devices per se. The test required a device-specific examination of the gameplay to determine whether outcomes presented to the player were predominantly based on skill or chance. Certain devices were deemed legal by lower courts, as a player was allowed to win back a losing wager if the player successfully completed an optional, laborious memory game that no one ever purposefully played. While it was clear that players were using the devices to gamble, lower courts were persuaded because a player could possibly recoup any losing wager, this negated the elements of chance under the predominant factor test. Consequently, the devices were deemed not to be gambling devices and were therefore legal to maintain and operate.

SCOPA's decision made it clear that the lower courts' analysis was deeply flawed. The Court held that if a device meets the statutory definition of a slot machine, then the device is unlawful outside of a premises licensed by the Pennsylvania Gaming Control Board (PGCB),¹ under both the Gaming Act (Title 4) and Section 5513 of the Crimes Code (Title 18). Thus, if a device meets the definition of a slot machine, there is no need to evaluate the device under the predominant factor test, weighing the elements of skill and chance in the games offered for play. While SCOPA's decision related to devices made by Pace-O-Matic (POM), the decision applies to any gaming device (whether a so-called "skill game" or a traditional gambling device or a video poker machine). While the Court did not overturn the "predominant factor test," it held that such an analysis is unnecessary if any machine meets the statutory definition of a "slot machine" under the Gaming Act.

¹ Slot machines are statutorily authorized within premises licensed by PGCB. While most slot machines are located within licensed casinos, up to five (5) devices may be legally operated within licensed "truck stop establishments" as defined in 4 Pa. C.S.A. § 3102. Devices located within these licensed truck stops, known as "video gaming terminals" (VGTs), may easily be confused with illegal slot machines (a/k/a "skill games") located within countless gas stations and convenience stores. Law enforcement personnel must therefore ensure that the location being investigated is not a truck stop location licensed by the PGCB. An up-to-date map of all such locations can be found at: [Maps of Video Game Terminals \(VGTs\) in PA | PGCB](#). It is possible that such locations may possess both legal VGTs in addition to illegal slot machines.

Section 1103 of the Gaming Act [4 Pa. C.S.A. § 1103] defines a “slot machine” as:

Any mechanical, electrical or computerized contrivance, terminal, machine or other device ... which, upon insertion of a coin, bill, ticket, token or similar object therein or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both:

May deliver or entitle the person or persons playing or operating the contrivance, terminal, machine or other device to receive cash, billets, tickets, tokens or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually;

May utilize spinning reels or video displays or both;

May or may not dispense coins, tickets or tokens to winning patrons;

May use an electronic credit system for receiving wagers and making payouts.

The term also includes any associated equipment necessary to conduct the operation of the slot machine (e.g., computer equipment, internet routing equipment, ticket redemption terminals, etc.).

Pursuant to Subsection 5513(b) of the Crimes Code [18 Pa. C.S.A. § 5513(b)], any gambling device possessed or used in violation of Subsection 5513(a), which would include any slot machine as defined in the Gaming Act, shall be seized and forfeited, in accordance with the provisions of 42 Pa. C.S. §§ 5803 *et seq.* (relating to asset forfeiture). SCOPA stayed enforcement of its decision for 120 days. Therefore, law enforcement may begin to initiate seizures of devices that are determined to be slot machines on or after October 14, 2026.

While it is anticipated that many businesses will remove their unlawful slot machines from their premises, or disable them in some way, on or before October 14th, law enforcement must be prepared to investigate operable machines and take any necessary enforcement action.

Slot Machine Investigations

1. Identifying a Slot Machine

There are a variety of devices that meet the statutory definition of a slot machine, from more traditional gambling devices (Cherry Master machines) to video poker machines to so-called “skill games.” However, the vast majority of devices that will be encountered within businesses are so-called “skill games,” which have the following physical characteristics:

- Stand-up cabinets similar to those of casino slot machines and arcade games, although there are some table-top versions found at bars and restaurants.
- The cabinets will typically have some verbiage containing the word “skill,” e.g., “Pennsylvania Skill Games,” “PA Skill,” “Superior Skill,” “Skill Touch,” etc.

- The devices will have a bill acceptor, typically located on the front of the cabinet, which accepts U.S. currency of various denominations.
- There will be buttons for gameplay, as well as a “cash out” button, although these may instead be built into a touchscreen monitor that can be utilized by the player.
- The devices typically play an attract screen previewing games available for play. Game themes vary, but the games are graphical representations of spinning slot reels or a grid containing a puzzle that must be completed to reveal predetermined outcomes to the players.

To avoid having employees handling cash payouts from the machines, many establishments utilize ticket redemption terminals (TRTs) that players can utilize to obtain their payouts. TRTs are very similar in appearance to the redemption terminals found in PGCB-licensed casinos and “truck stops.” It is recommended that TRT machines be listed in search warrants and ultimately seized, along with any operable slot machine, as TRT machines will contain the proceeds from the slot machines.

2. Initial Visit Involving an Operable or Inoperable Slot Machine

a. Encountering Operational Slot Machines

If a machine having the above physical characteristics is plugged in and operational, it is recommended that an officer play the machine as described and note the following:

- Place currency (at least \$5) into the bill acceptor and note the credits awarded for gameplay.
- Select one of the available games and note whether the game consists of spinning reels or video displays or puzzles to be completed when prompted.
- Place low wagers or bets using available credits, noting what you select, what you have to do to generate the outcome (e.g., complete a puzzle, nudge a column up or down, or did the outcome present itself with no required interaction), and the resulting credit outcome(s).²
- Attempt to obtain at least one outcome where the reward is greater than the wager.³
- Press the “cash out” button or option on the screen to receive the cash value of the resulting credits or a ticket indicating the amount of your payout.
 - If a TRT (or another mechanical form of reward payment) is present at the location, the “cash out” ticket should then be inserted into the TRT for payment. If payment is made from the TRT, then this is evidence that the TRT may be seized as constituting “associated equipment necessary to conduct the operation of the slot machine.”

If an officer is able to insert money, play a featured game, and cash out on the device, this is sufficient to establish that the device is a slot machine that is subject to seizure. While it is possible

² While many of the devices have “attract” screens which preview the available games on the device and how they operate, playing at least one game helps to ensure that the device “is available to play or operate ... whether by reason of skill or application of the element of chance or both. . . .” some type of game which “[m]ay utilize spinning reels or video displays or both.” 4 Pa. C.S.A. § 1103.

³ While there is a strong argument that, given the statutory definition of a slot machine, it is not necessary to establish that you can win more than what was wagered, having this evidence will strengthen the overall investigation and assist with an expeditious forfeiture and/or criminal or administrative prosecution. However, if an officer is unable to obtain such a winning result on one particular game offered by a device (i.e., “bad luck”), this should not prevent an officer from finishing the investigative steps and obtaining a warrant for seizure.

that probable cause for seizure may be established through the observations of an officer watching someone else play a game, this may affect the quality of the evidence needed to establish probable cause due to the officer's vantage point.

It is important to note that businesses possessing slot machines may not own the machines, which can cost thousands of dollars or more apiece. Most businesses allow distributors or vendors to place their machines inside their businesses in return for an agreement to split the profits from the operation of the machines. As a result, officers will likely encounter situations in which a business advises that it does not have control over when the machines will be removed by their actual owner(s).

If other types of suspected gambling devices, such as Cherry Master machines, video poker machines, or "coin pusher" machines are observed at a business, the same investigative procedures should be utilized to determine if the machines are slot machines. Officers should consult with the appropriate District Attorney if there are questions related to any suspected slot machines, or whether such machines should be listed in the search warrant with other suspected slot machines.⁴

b. Encountering Inoperable or Unplugged Slot Machines

If an officer observes that any device having the physical characteristics of a slot machine is turned off or is unplugged, it is recommended that he or she should ascertain whether a manager or an employee can be located. After identifying himself or herself, it is recommended that the officer ask the manager and/or employee about the machine, whether the machine can be played, and why it has not been removed from the premises given the Supreme Court's decision. If the machine is simply unplugged, it is recommended that the officer ask the employee and/or manager to plug in the device and turn it on so that it can be inspected. If consent is given, the officer should proceed with the steps noted above.

If the manager and/or employee is not present or refuses to plug in or turn on the device, it is recommended that the officer note and document the above physical characteristics. A follow-up uniformed or undercover visit may be needed depending on the circumstances to inspect the device before seizure is attempted. If a machine is turned off, it is recommended that a warrant be obtained to turn on or plug in the machine. It is not recommended that a machine be powered on or plugged in without consent or a search warrant.

A machine that is plugged in and powered on, may nevertheless be inoperable. This may occur for various reasons, including hardware/software malfunction or removal, or because an internet connection has been severed or interrupted. In the case of a device that is plugged in and turned on, but is otherwise inoperable, the presence of other machines will dictate whether such a device should be seized. For example, if an establishment possesses functioning slot machines as well as a similar but inoperable machine, then all machines, whether functioning or inoperable, may be listed on the search warrant and seized. However, if the only devices located at the establishment are inoperable, and they cannot be turned on and played by anyone, then it is recommended that the devices should not be seized until further investigation is conducted.⁵

⁴ PSP's Bureau of Liquor Control Enforcement (BLCE) has significant experience in examining a variety of gambling devices, so outreach to PSP's Office of Chief Counsel or to the appropriate BLCE office may be useful.

⁵ It is possible that a device manufacturer or distributor may, or on after October 13th (the last day of SCOPA's 120-day stay), disable a device or otherwise prevent gameplay.

Ideally, a search warrant should be obtained promptly after gameplay to ensure that the correct device with the existing software is seized. An identifying mark of the officer's choosing may be placed on a machine to ensure that a specific device is still at the location when executing the search warrant.

Search Warrants and Seizures

The affiant should include factors giving rise to probable cause for both functional and inoperative machines (i.e., physical characteristics of the devices (cabinets and bill acceptors), brief description of game play, and ability to cash out). Also, any voluntary statements made by the manager or employees about the machines should be included, such as any statements related to payouts, ownership, or whether the business will seek replacement machines after seizure. A draft search warrant template and consent form are attached for slot machines. Officers should consult with the appropriate District Attorney for assistance in drafting search warrants.

Skill Games Resources

Learn about the Pennsylvania skill games compliance deadline of October 13, 2026, and the steps businesses and establishments can take to comply with the law.

Overview

On June 15, 2026, the Supreme Court of Pennsylvania ruled that skill games, often found in taverns, restaurants, social clubs, mini-marts, gas stations, grocery stores, laundromats, pizza parlors, and other businesses, are in fact "slot machines" as defined in the [Gaming Act](#).

Slot machines are considered gambling devices under the Crimes Code. It is a criminal offense to own, operate, or maintain slot machines without a license issued by the [Pennsylvania Gaming Control Board](#) (PGCB).

Further, pursuant to section 5513 of the Crimes Code, distributors and manufacturers of such machines are cautioned that it is a criminal offense to maintain, assemble, set up, make, sell or lease slot machines unless they are licensed and authorized to do so by the PGCB.

Under the Gaming Act, only licensed casinos and qualifying licensed "truck stop establishments" may legally possess and operate slot machines or video gaming terminals. Further, only machines that have been inspected and approved for operation by the PGCB may be located and operated within PGCB-licensed locations, including casinos and truck stops.

Businesses and establishments must arrange to have skill game devices and related equipment removed.

If you have skill game devices after the deadline

Enforcement

All skill games devices/slot machines located outside of PGCB-licensed businesses are unlawful and all establishments possessing, operating and/or maintaining such machines are subject to criminal prosecution and immediate seizure of the machines as of October 14, 2026.

PSP and other law enforcement agencies may take enforcement actions against businesses which continue to possess, distribute, operate and/or maintain skill game devices after the compliance deadline.

Enforcement actions may include:

- Seizing and forfeiting the machines and associated equipment
- Seizing proceeds associated with the operation of the machines
- Filing criminal charges when deemed appropriate
- Administrative citation filed against a liquor license, which may result in a fine and/or suspension of the license

Recommendations and Contacts

The PSP strongly recommends that businesses currently hosting such machines discuss their immediate removal with any distributors or vendors who may own the machines and associated equipment, including ticket redemption terminals. Distributors, vendors and manufacturers refusing to remove their slot machines from businesses are reminded of the potential for criminal charges should they continue to maintain devices for operation.

Powering off or unplugging an otherwise operable machine is not sufficient. To be clear, a slot machine does not cease being a slot machine if it has simply been turned off, unplugged, or temporarily disabled, allowing it to be readily operated. If a distributor or vendor is unwilling to remove operable machines after the deadline, the establishment is encouraged to proactively reach out to PSP to assist in their removal to ensure compliance with applicable law.

You have skill game devices and HAVE a liquor license

Contact your local [Bureau of Liquor Control Enforcement office](#) for assistance.

You have skill game devices but DO NOT have a liquor license

Contact your local PSP Station for assistance:

- Use our [Troop Directory](#) to find a station near you, or
- [Search for your station by name or county](#)

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EXHIBIT

B

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SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

IN RE: THREE PENNSYLVANIA SKILL AMUSEMENT DEVICES, ONE GREEN BANK BAG CONTAINING \$525.00 IN U.S. CURRENCY, AND SEVEN RECEIPTS	50 MAP 2024
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PROPOSED ORDER

AND NOW, this _____ of 2026, upon consideration of the
Application to Intervene filed by the Skill Games Business Consortium, it is
hereby ORDERED, ADJUDGED, and DECREED that the Application is
GRANTED.

SO ORDERED BY THE COURT,
