

## Pennsylvania Supreme Court Rules Skill Game Devices Are Slot Machines

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*Source: Saiber Gaming Law Alert*

On June 15, 2026, the Pennsylvania Supreme Court issued a landmark decision in *In Re: Three Pennsylvania Skill Amusement Devices, et al.* (No. 50 MAP 2024) and *POM of Pennsylvania, LLC v. Commonwealth of Pennsylvania, Department of Revenue, et al.* (No. 2 EAP 2024), reversing two Pennsylvania Commonwealth Court decisions and holding that “skill game” devices are “slot machines” under the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. §§ 1101-1904 (the “Gaming Act”). The opinion, authored by Justice Wecht and joined by Chief Justice Todd and Justice McCaffery, describes the Commonwealth Court’s prior interpretation of governing statutes and their application to “skill game” devices as “deeply flawed.” The Court stayed its order for 120 days, providing the General Assembly with time to develop legislation which addresses the estimated 70,000 skill game devices currently operating in the Commonwealth.

This long-awaited decision resolves years of legal uncertainty surrounding these devices and will have a substantial impact on the future of Pennsylvania’s gaming industry.

### Key Holdings and Reasoning

The Court’s decision set forth several critical legal conclusions:

- The “skill game” devices at issue are “slot machines” under the statutory definitions of the Gaming Act and rejected the argument that only devices approved by the Pennsylvania Gaming Control Board (“PGCB”) may be classified as slot machines.

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The Gaming Act applies broadly, not only to licensed entities and licensed facilities. The Commonwealth Court erred in concluding that the Gaming Act regulates only “licensed slot machines in licensed facilities.” Statutory provisions such as Section 1317.1(e)(1), which prohibits any person from manufacturing slot machines for use within this Commonwealth without the appropriate license, apply far more broadly.

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The Gaming Act and the Crimes Code form a unified statutory scheme. These statutes are not separate “islands” addressing “legal” versus “illegal” gambling, but instead are “two sides of the same coin.” Cross-references between Section 5513(e.1)(4) of the Crimes Code and Section 1903(a)(2) of the Gaming Act establish an integrated regulatory framework.

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The “predominant factor test” is irrelevant to the legal issues in these cases. Following Act 42 of 2017’s addition of “skill slot machine” and “hybrid slot machine” definitions, the traditional skill-versus-chance analysis no longer determines whether a device qualifies as a “slot machine” under the Gaming Act.

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Operating skill game devices without the appropriate licenses issued by the PGCB violates both the Gaming Act (Sections 1317.1(e) and 1518(a)(4)) and the Crimes Code (Section 5513).

### **Impact on the Pennsylvania Gaming Industry**

The decision’s practical implications are far-reaching. Skill game devices currently operate across Pennsylvania in convenience stores, bars, restaurants, gas stations, social clubs, laundromats, dedicated gaming parlors, and other establishments. The ruling affects thousands of small businesses and social organizations that host the machines and rely on the revenue they generate.

For Pennsylvania’s licensed casino and video gaming terminal operators, the decision is likely to be viewed as a significant development. Licensed operators have long argued that the unregulated proliferation of skill games siphons revenue and circumvents both the substantial licensing fees (as high as \$50 million for a Category 1 or Category 2 licenses) and the high daily gross terminal revenue tax that licensed operators are required to pay.

For the skill game industry, the ruling signals that continued operation without proper licensing is now unlawful under both the Gaming Act and Section 5513 of the Crimes Code, though the 120-day stay provides a transition period. The Supreme Court acknowledged that many participants in the industry relied in good faith on the Commonwealth Court’s prior rulings and “under the impression that they are operating fully within the bounds of the law.”

### **The 120-Day Safe Harbor and Regulatory Timeline**

Critically, the Court stayed its order for 120 days from the date of the decision (June 15, 2026), meaning the stay expires approximately October 13, 2026. During this period, no law enforcement agency is to take adverse action against owners or operators of skill game devices in reliance upon this opinion.

The Court explicitly noted that the General Assembly “remains free at any time to take whatever legislative action it may deem appropriate.” This 120-day window creates urgency for the Pennsylvania legislature to enact a regulatory framework for skill game devices.

If you have any questions about the above alert, please contact [Kevin C. Hayes](#) of Saiber LLC’s [Gaming Law practice group](#).