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PA Supreme Court Rules Skill Games Are Slot Machines

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On June 15, 2026, the Pennsylvania Supreme Court issued its long-awaited decision on the legality of so-called “skill games.”

These machines have proliferated throughout the Commonwealth, often found in taverns, restaurants, social clubs, gas stations, and pizza shops. In a 4-2 decision, the Pennsylvania Supreme Court held that these devices are slot machines, “several times over,” and therefore subject to the Pennsylvania Gaming Act and Section 5513 of the Crimes Code. Recognizing the significant impact of this ruling, however, the Court imposed a **120-day safe harbor period** during which law enforcement agencies may not take adverse action against owners or operators of skill devices.

Background

The case centered on a device known as the “Pennsylvania Skill Amusement Device.” This device resembles a traditional slot machine, featuring three virtually spinning reels and a displayed pay table. Players insert cash, which is converted into credits or points, and then decide how many points to wager on a spin. Matching symbols in a row produce winnings. Critically, the machines contain a “Follow Me” feature that requires players to remember a sequence of colored dots through multiple rounds. Because this feature involves memory and player participation, lower courts had previously concluded that skill, rather than chance, predominated in determining the outcome. That conclusion led many courts to view skill games as existing in a gray legal area beyond the reach of both the Gaming Act and the Crimes Code.

Much of that uncertainty stemmed from Section 5513 of the Crimes Code, which does not expressly mention “skill games.” The statute provides that a person commits a first-degree misdemeanor if he or she:

1. Intentionally or knowingly makes, assembles, sets up, maintains, sells, lends, leases, gives away, or offers for sale, loan, lease or gift, any punch board, drawing card, **slot machine** or any device to be used for gambling purposes, except playing cards;
2. Allows persons to collect and assemble for the purpose of unlawful gambling at any place under his control;
3. Solicits or invites any person to visit any unlawful gambling place for the purpose of gambling; or
4. Being the owner, tenant, lessee or occupant of any premises, knowingly permits or suffers the same, or any part thereof, to be used for the purpose of unlawful gambling.

Complicating matters further, Section 5513 does not define the terms “slot machine,” “unlawful gambling,” or “any device to be used for gambling purposes.” At the same time, Section 5513 (e.1) recognizes that activities “lawfully conducted” under the Gaming Act are not unlawful under Section 5513(a). Lower courts struggled to reconcile these provisions, leading to conflicting decisions regarding whether these skill games fell within either statute.

The Court's Decision

The Pennsylvania Supreme Court's decision consolidated two major cases: *POM of Pennsylvania, LLC v. Department of Revenue*, 221 A.3d 717 (Pa. Cmwlth. 2019) and *In re: Three Pennsylvania Skill Amusement Devices, One Green Bank Bag Containing $525.00 in U.S. Currency, and Seven Receipts*, 306 A.3d 432 (Pa. Cmwlth. 2023). In *POM*, the Commonwealth Court held that the Gaming Act did not apply to the machines because the Act regulated only licensed slot machines in licensed facilities. In *Three Devices*, the Commonwealth Court went even further and concluded that the machines fell outside of Section 5513 of the Crimes Code.

The Pennsylvania Supreme Court found this reasoning deeply flawed. The Court observed that, under the Commonwealth Court's logic, a person could remove slot machines from a casino, place them in a backyard, and operate an unlicensed casino free from the Gaming Act simply because no license had been obtained. The Supreme Court rejected that interpretation outright.

Key to the Court's analysis was Act 42 of 2017, which amended the Gaming Act by defining a "skill slot machine" as a "slot machine in which the skill of the player, rather than the element of chance, is the predominant factor in affecting the outcome of the game" and a "hybrid slot machine" as a "slot machine in which a combination of the skill of the player and elements of chance affect the outcome of the game." The Court found that these definitions fundamentally changed the legal analysis.

According to the Court, "The Gaming Act and Section 5513 of the Crimes Code are not unrelated statutes dealing with the separate universes of 'legal' and 'illegal gambling.'" Rather, the Gaming Act addresses far more than the activities of licensed entities and contains numerous prohibitions on unlicensed conduct. As such, a "slot machine" under the Gaming Act is the "very same" slot machine under Section 5513(a)(1) of the Crimes Code. After Act 42, that definition includes both "skill slot machines" and "hybrid slot machines," making the traditional debate over whether skill or chance predominates largely irrelevant to this case.

In the end, the Court held that the Gaming Act and the Crimes Code work together. Section 5513 directs courts to look to the Gaming Act to determine what gambling activities are "lawfully conducted." Activities involving a "slot machine" that are not lawfully operated under the Gaming Act remain subject to Section 5513. The Court therefore concluded that a POM device is a "slot machine" because it satisfies the Gaming Act's definition of either a "skill slot machine" or a "hybrid slot machine." As a result, the Pa. Supreme Court reversed the Commonwealth Court and held that skill game devices are subject to both the Gaming Act and the Crimes Code.

Implications

For municipalities, operators, business owners, and establishments that currently host skill games, the immediate takeaway is straightforward: nothing changes today. The Court's 120-day stay means that law enforcement agencies cannot act against owners or operators of skill game devices until October 14, 2026. During this period, it's also possible that the General Assembly might amend the Gaming Act or the Crimes Code.

We are bringing this to your attention as it is an important change to how skill games have been interpreted by the courts. Should you have any questions, please do not hesitate to contact your named solicitor or any attorney in our Governmental Practice Group.



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