



Skill games under the legislative microscope

Introduction: For calendar year 2024, Pennsylvania’s casinos recorded revenues topping \$6.14 billion, the highest amount since slot machines debuted in 2006.

The state has subsequently legalized [additional forms of gaming](#) including table games; internet gaming (slots and table games); sports wagering; video gaming terminals and fantasy sports contests. Retail slots (slot machines at the casinos) remain the biggest source of revenue, accounting for 43 percent of the state’s total gaming revenue, followed by internet-type gaming at 38 percent and retail table games (table games at the casinos) at 16 percent. It’s worth noting that since the advent of internet gaming in 2019, it has quickly surpassed retail table games as the second-highest revenue earner.

Types of gaming

A lot rides on the performance of slot machines, both retail and internet. The gross terminal revenues are taxed at a rate of 54 percent. For retail slots, there is a 34 percent assessment for property tax relief; a 4 percent assessment for the local share; a 6 percent rate is added for the economic development and tourism fund with the remainder allocated to the racehorse development fund.

For internet slots, the tax is divided up a bit differently: 34 percent to the state (with 65 percent of that going for property tax relief and the rest to the state treasury), 13 percent for the Commonwealth Financing Authority (county grants) and 7 percent for the local share. Neither the economic development and tourism fund nor the horseracing fund receive money from internet slots.

Over the years the number of retail slot machines have been regulated for each category of casino license holders, with stand-alone and track casinos allotted more than resort-style casinos. But on average, there have always been about 25,000 retail slot machines in casinos across the commonwealth.

Video-gaming terminals are available at truck stops across the state and are taxed at a rate of 52 percent—42 percent to the state’s general fund and 10 percent for the local share. They represent a small fraction of total gaming revenues at less than one percent. There are 74

qualified truck stop establishments within the state, each permitted five machines for a total of 370 machines.

Sports wagering represents the fastest growing form of gaming for the state. Since the first full year of play—2020—total revenues have risen from \$189.7 million to \$510.7 million in 2024, an increase of nearly 170 percent. Sports wagering is taxed at a rate of 36 percent with 34 percent going to the state’s general fund and 2 percent to the local share.

Fantasy gaming, a process by which a gamer selects players (typically football) to form a team that will compete (statistically) against other gamers’ teams, is taxed at a 15 percent rate, which goes to the state’s general fund. This type of gaming represents the smallest fraction of total gaming revenues at 0.33 percent and just \$18.7 million in 2024.

The final gaming type is table games, both retail and internet. The total tax rate on table games is 14 percent with 12 percent dedicated to the state’s general fund and the remaining 2 percent for the local share. The only exception is for fully automated table games, which are taxed at 34 percent, but there are far fewer of them.

Skill games

Skill games have proliferated across the commonwealth with the American Gaming Association estimating 67,000 games to be operating. According to an August 2024 article from [CDC Gaming](#), they are called skill games because there is no random number generator, so a game pattern does exist. Therefore, a player can learn and adapt and can theoretically win every game. The player needs to know when it’s the right time to stop the game, requiring hand-eye coordination, memory of previous games and patience. The “house” has no built-in mathematical advantage as with a slot machine.

While the “skill” component may be hard to define, skill games are not defined as gambling and thus fall outside of gaming laws. As the CDC article mentioned, “the definition of a gambling game [is] that it requires a wager, a random chance of outcome, and a prize...”. The layers of skill involved in skill games is what places them outside the definition of gambling.

The Pennsylvania Commonwealth Court agreed in a November 2023 ruling that Pace-O-Matic skill games (the predominant maker of these games and the party that brought the suit), are legal games of skill, and not gambling, and, as such, are not subject to gaming taxes and regulations.

The verdict is on appeal to the state Supreme Court.

In July 2024, 12 casinos brought a lawsuit seeking relief from the burden imposed on operators of slot machines. This is an issue the Legislature and the governor have already weighed in on.

Governor Shapiro’s first proposal in 2024 was to tax the revenue of skill games at 42 percent and place them under the control of the gaming control board. That proposal failed.

In April of this year, the governor pushed a 52 percent tax rate, the same rate as the video gaming terminals at truck stops and closer to the rate that retail and internet slot machines pay. This proposal has, unsurprisingly, the support of Pennsylvania's casinos. The governor claims that the growth of skill games is hurting the lottery's revenues and, thus, senior citizens. The higher rate would compensate for lottery losses.

According to the Pennsylvania Lottery Bureau's comparative statement of income and expenditures, in fiscal 2014, total revenue from all 13 games was \$3.8 billion. The revenues climbed to \$5.01 billion in fiscal 2022 with 17 games before dropping to \$4.80 billion from 18 games in fiscal 2024—a decline of 4.20 percent or \$210.6 million.

As mentioned earlier, gaming revenues at Pennsylvania's casinos have steadily risen over the years. From 2022 through 2024 (calendar), total revenue grew by 17.8 percent. Slot machine revenues grew by 2.4 percent while internet gaming grew by 60 percent. Only table games fell during that period (5.4 percent).

A [counterproposal](#) from Sen. Gene Yaw (R-Williamsport) is to tax skill games at 16 percent—just slightly more than the current table games rate of 14 percent. Currently, since the games are not taxed directly, it is a source of income for the organizations and establishments that have them and would be reported on income tax returns. The senator notes that the revenues from skill games benefits “local taverns, special clubs, and most importantly, veterans’ organizations.”

But no one knows how much revenue skill games generate as they are not regulated by any agency that would collect data. Even the number of terminals is an estimation. The [Pennsylvania Independent Fiscal Office](#) estimates the governor's proposal of 52 percent with 30,000 machines would generate \$195 million in the first fiscal year and could reach \$1 billion after four years with 40,000 machines.

While a few states have skill games, only Wyoming regulates and taxes skill games with legislation enacted in 2020. Skill games must be licensed by the Wyoming Gaming Commission (previously had overseen the horse racing industry). Each machine vendor pays an annual cost of \$2,500 while an establishment pays \$250. Each establishment is limited to four machines as they are designed to be supplemental entertainment, not destination entertainment. Each terminal must display an annual registration decal costing \$50.

The Wyoming legislation requires that skill games must have an independent laboratory report certifying that it's a bona fide skill game, as determined by an individual's level of strategy and skill rather than a game of chance. It is not a slot machine. Players must be 21 years of age or older. Game play is limited to \$3 with payouts capped at \$3,000 per play. The type of location that can host skill games are truck stops, smoke shops and establishments selling alcoholic liquor or malt beverages.

The games are taxed on net proceeds at 20 percent with 45 percent of the tax going to the city, town or county where the game terminal is placed. In 2020, there were 836 terminals operating and by 2023 (latest data available) it grew to 1,301. Tax revenue grew 17.4 percent from 2021 (\$4.86 million) to 2023 (\$5.71 million).

Conclusion

One thing is certain, the gaming genie is out of the bottle in Pennsylvania. First, it was the lottery system with scratch-offs and monitor games (number drawings) and then slot machines and table games followed by internet gaming, sports wagering and others. Now skill games have come into the mix.

Typically, government entities are loathe to endorse “sin activities,” like gambling—unless they need money. The lottery system was sold as benefitting senior citizens and slot machines were to reduce school property taxes. The former appears to be true. The latter does not. Will skill games be sold as a solution to our transportation infrastructure problem?

Pennsylvania is, once again, desperate for tax money and without a significantly growing economy, it must look elsewhere to find it. Skill games are just the next step. The governor is proposing a 52 percent rate while there is a Senate proposal for 16 percent. Wyoming, the only state with a tax on skill games, taxes at a rate of 20 percent.

With casinos paying millions of dollars for licenses, not to mention the physical buildings, staff and a high tax rate on slot machines (most akin to skill games), there will be pressure on the legislative process to find a tax rate closest to theirs. But on the other hand, there are the taverns, social clubs and veterans’ organizations that rely on the revenue for their existence. The pressure from both groups will be intense as the Legislature and governor grapple with this issue.

This would not be the case if Pennsylvania had the policies in place to provide its citizens with a growing economy, i.e., a lower cost of government, lower tax rates, mandated property reassessments, fewer regulations and the adoption of Right-to-Work. Instead, the state is relying on gimmicks to satisfy its appetite for spending.

Frank Gamrat, Ph.D., Executive Director

Policy Briefs may be reprinted as long as proper attribution is given.

Allegheny Institute for Public Policy
305 Mt. Lebanon Blvd.* Suite 208* Pittsburgh PA 15234
Phone (412) 440-0079
E-mail: aipp@alleghenyinstitute.org
Website: www.alleghenyinstitute.org
X (Twitter): [AlleghenyInsti1](https://twitter.com/AlleghenyInsti1)