



CITY OF PITTSBURGH
DEPARTMENT OF LAW
CITY-COUNTY BUILDING

INTEROFFICE MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED DOCUMENT

TO: Council Member Anthony Coghill
FROM: City Solicitor Lisa Zeidner Marcus *LZM*
DATE: April 6, 2026
RE: Taxation/regulation of Mechanical Amusement Devices and Skill Games

Background

“Skill games,” as referred to in this memorandum, are video gaming machines found most often in bars and convenience stores that allow players to pay to play one or more video games in exchange for a potential reward in the form of a credit or currency. The user can either win or lose at the game—in the case of a victory, the user may be rewarded with some amount of money or credit that can be exchanged for currency. In the case of a defeat, the user’s payment to play is kept by the game operator.

So-called skill games have been subject to years of recent litigation due to the similarities between (a) skill games, and (b) slot machines and other gambling devices. Slot machines and gambling devices are heavily regulated by the Commonwealth. Most recently, in 2023, the Commonwealth Court decided *In re: Three Pennsylvania Skill Amusement Devices*, 306 A.3d 432 (Pa. Commw. Ct. 2023) (“*Three Pennsylvania Devices*”). Prior to that, the Commonwealth Court had issued an opinion in *POM of Pennsylvania, LLC v. Department of Revenue*, 221 A.3d 717 (Pa. Commw. Ct. 2019) (“*POM of Pennsylvania*”). In both cases, the Commonwealth Court ruled that the “skill games” devices at issue in those cases were not slot machines or gambling devices subject to regulation by the state under the current statutory scheme that applies to slot machines and gambling devices. Both cases have been appealed to the Pennsylvania Supreme Court, and are currently awaiting disposition.

Slot machines, gambling devices, and video gaming terminals are regulated by the Commonwealth pursuant to the Gaming Act, 4 Pa. C.S.A. §§ 1101 to 1904, the Video Gaming

Act, 4 Pa. C.S.A. §§ 3101 to 4506, and the Crimes Code, 18 Pa. C.S. § 5513(a). Political subdivisions of Pennsylvania are unable to tax or regulate the same, as the field is “preempted” by the Commonwealth. However, depending on the Supreme Court’s upcoming decisions in *Three Pennsylvania Devices* and its sister case, *POM of Pennsylvania*, skill games may be seen to lie outside the Commonwealth’s sole regulatory authority. If the Pennsylvania Supreme Court determines that skill games do not fall within the definitional purview of the Gaming Act, the Video Gaming Act, or the Crime Code, municipalities may be able to regulate in this space. As a result, skill games could present a valuable funding opportunity for local municipalities.

Questions Presented

This memorandum addresses the following four questions that were asked by Councilman Coghill’s office:

- (1) Are privilege taxes and license fees functionally the same? In other words, would a license fee on mechanical amusement devices, including skill games, be exempt from the requirement that fees not exceed their cost to enforce that have been at the heart of lawsuits such as rental registration?
- (2) Can a new tax in 2026 be implemented at any time during the fiscal year?
- (3) Have there been any appeals to the *Three Pennsylvania Skill Amusement Devices* case or other cases concerning the definition of skill games/slot machines before the Commonwealth Court of the Pennsylvania Supreme Court? If yes, are there any judgments/rulings that diverge from the Commonwealth Court’s findings in *Three Pennsylvania Skill Amusement Devices*?
- (4) Is it “better” or “safer” relative to likelihood of lawsuit challenges to have a tiered system, flat fee, or targeted skill game tax?

Brief Answers

(1) “Privilege taxes” and “license fees” could functionally act in the same way, depending on the amount of the fee. If the fee is commensurate with the City’s cost to administer a license, the exaction could be considered a license fee or a tax, and there would be no functional difference aside from the procedures for collection. However, a license fee on mechanical amusement devices would not be exempt from the requirement that fees be commensurate with the cost to administer the license.

(2) Yes, the Local Tax Enabling Act permits the City of Pittsburgh to implement a new tax during fiscal year 2026. However, we may not have clarity this year from the Pennsylvania Supreme Court regarding whether skill games are gambling devices subject (solely) to State regulation.

(3) Yes, there has been an appeal to *Three Pennsylvania Devices*, which is currently pending Pennsylvania Supreme Court decision, along with *POM of Pennsylvania*, discussed below, which is a similar Commonwealth Court case, that reached the same result, and is also pending a Supreme Court decision. These are the two major cases that will decide the future of skill game regulation, but there have been other higher court cases dealing tangentially with skill games. There is an additional case, *Gracie Technologies*, which had a different result from the preceding two cases. The conclusion in *Gracie Technologies* rested on separate and distinct facts from the main two Commonwealth Court cases.

(4) The safest option would be a flat fee, but the City does have room to defend a tiered system as well as a targeted system.

Analysis

1. Are privilege taxes and license fees functionally the same? In other words, would a license fee on mechanical amusement devices, including skill games, be exempt from the requirement that fees not exceed their cost to enforce?

“Privilege taxes” and “license fees” could functionally act in the same way, depending on the amount of the exaction. If the exaction is commensurate with the City’s cost to administer a license, the exaction could be considered a license fee or a tax, and there would be no functional difference aside from the procedures for collection. However, a license fee on mechanical amusement devices (including skill games) would not be exempt from the requirement that fees be commensurate with the cost to administer the license.

A “license fee” is “a sum assessed for the granting of a privilege.” *Mastrangelo v. Buckley*, 250 A.2d 447, 464 (Pa. 1969). Where a municipality grants a license, invariably that municipality incurs an expense, such as the cost of registration and inspection. The Pennsylvania Supreme Court has observed that “it is only proper that one who seeks and receives a license should bear this expense.” *Id.* However, a license fee levied by a municipality must be “commensurate” with the expense incurred by the municipality in connection with the issuance and supervision of the license or privilege. *Id.*

A license fee is distinguishable from a “tax,” which is a “revenue-producing measure . . . characterized by the production of . . . a high proportion of income relative to the costs of collection and supervision.” *Greenacres Apartments, Inc. v. Bristol Township*, 482 A.2d 1356, 1359 (Pa. Commw. Ct. 1984). If a license fee “collects more than an amount commensurate with the expense of administering the license, it would become a tax revenue and cease to be a valid license fee.” *Thompson v. City of Altoona Code Appeals Board*, 934 A.2d 130, 133 (Pa. Commw. Ct. 2007) (citing *Stark v. Commonwealth*, 494 A.2d 44 (Pa. Commw. Ct. 1985)).

Absent a specific grant or a delegation of the power to tax from the Pennsylvania General Assembly, no municipality has any power or authority to levy, assess, or collect taxes. *Mastrangelo v. Buckley*, 250 A.2d 447, 452-53 (Pa. 1969).

In the case of mechanical amusement devices, including skill games, a tax and a license fee could be functionally the same. The determinative factor would be the amount of the exaction. If the amount of the exaction is commensurate with the City's expense in administering the license for operation, the license fee would be upheld as a valid fee. However, if the amount of the exaction exceeds the City's expense in administering the license for operation, a court would find the fee to be a revenue-generating tax. The City Code can call the mechanical amusement device exaction a license or a tax, but a reviewing court would not be bound by the Code's classification of the fee. Instead, a reviewing court would look to the substance of the fee and make its own determination as to whether the fee is a license fee or a tax, weighing the amount of the fee against the cost to administer it. This is what the Court of Common Pleas did in *Landlord Service Bureau, Inc. v. City of Pittsburgh*, GD 15-023074 (Ct. Com. Pl. 2021), in the realm of the City's then-rental registration ordinance. *See Landlord Serv. Bureau, Inc. v. City of Pittsburgh*, 291 A.3d 961, 966 (Pa. Commw. Ct. 2023) (discussing trial court decision), *opinion vacated, appeal dismissed*, 317 A.3d 986 (Pa. 2024)¹.

A license fee on mechanical amusement devices would not be exempt from the requirement that license fees not exceed their cost to enforce. However, the City does have authority to tax mechanical amusement devices, including skill games. As a second-class city, the City of Pittsburgh may, for general revenue purposes, levy and assess taxes on persons, transactions, occupations, privileges, subjects, and personal property within the City. 53 P.S. § 6924.301.1(a) (Local Tax Enabling Act). Under the Local Tax Enabling Act, the City can levy a tax upon the privilege of engaging in or operating various types of amusements, including mechanical amusement devices. *Fierro v. City of Williamsport*, 120 A.2d 889 (Pa. 1956); *School Dist. Of Bensalem Tp. v. Rose Bowl, Inc.*, 209 A.2d 23, 15 (Pa. Super. 1965) (citing *Fierro*); *Moon Schools Union School Dist. v. Tiglio*, 128 A.2d 150, 152-53 (Pa. Super. 1956).

Regardless of the City Code's classification of the exaction as between tax or license fee, the City currently has the power to collect funds connected to the privilege of operating mechanical amusement devices, including skill games. However, if the City Code calls it a license fee, the fee will need to be commensurate with the cost to administer the license. Otherwise, the ordinance would likely be challenged, and a court would deem the fee to instead be a tax.

Importantly, in the event that the Supreme Court declares that skill games are in fact gambling devices or are otherwise subject to the Pennsylvania Gaming Act or Video Gaming Act, the City of Pittsburgh would thereafter be unable to regulate or tax the devices. This is because of

¹ The rental-registration ordinance case was later dismissed as moot after the City amended the legislation and wholly replaced it with a new ordinance. *Landlord Serv. Bureau, Inc. v. City of Pittsburgh*, 317 A.3d 986 (Pa. 2024).

state preemption: the City may not impose a tax or license fee on any privilege, transaction, subject, occupation, or personal property that is also subject to a state tax or license fee. 53 P.S. § 6924.301.1(f)(1). *See also Hoffman Min. Co., Inc. v. Zoning Hearing Bd. Of Adams Tp., Cambria County*, 32 A.3d 587 (Pa. 2011) (discussing field preemption). Similarly, if the General Assembly does elect in the future to tax or regulate skill games separately from gambling devices, the City would likewise be unable to regulate or tax skill games, because the field of skill games would thereafter be preempted by the Commonwealth.

Additionally, a City of Pittsburgh tax on or regulation of skill games could face a preemption challenge based on the Video Gaming Act, 4 Pa. C.S.A. §§ 3101–4506. The Video Gaming Act regulates “video gaming terminals” in the state. A video gaming terminal is defined as:

A mechanical or electrical contrivance, terminal, machine or other device approved by the [Gaming Control Board] that, upon insertion of cash or cash equivalents, is available to play or operate one or more **gambling** games, the play of which utilizes a random number generator and: (i) May award a winning player either a free game or credit that shall only be redeemable for cash or cash equivalents at a redemption terminal. (ii) May utilize video displays. (iii) May use an electronic credit system for receiving wagers and making payouts that are only redeemable at a redemption terminal.

4 Pa. C.S.A. § 3102 (emphasis added). Section 4503 of the Video Gaming Act expressly states that the Act preempts local taxation and licensing fees.

While the Video Gaming Act may appear to disallow the City’s taxation or licensing of skill games, it is likely that the Act would not ultimately preclude the City’s action here. Because the definition of video gaming terminals requires that the terminals offer gambling games, the Video Gaming Act does not likely apply to skill games under the current Commonwealth Court case law discussed in this memorandum. The Commonwealth Court has repeatedly held that skill games are not gambling devices. Therefore, the Video Gaming Act likely does not apply to skill games. This conclusion is further buttressed by the fact that the General Assembly has made recent efforts to pass a new statutory scheme to apply specifically to skill games, which suggests that in the General Assembly’s view, the Video Gaming Act does not squarely apply to skill games.

2. Can a new tax in 2026 be implemented at any time during the fiscal year?

The City of Pittsburgh can implement a new tax at any time during the fiscal year. The question would then become: what is the earliest transaction or activity that the City may tax by virtue of a new taxing ordinance or resolution? In other words, can the City tax activities that have already occurred during the current fiscal year, but prior to the official enactment of the new tax?

The Local Tax Enabling Act, 53 P.S. §§ 6924.101–6924.901, from which the City of Pittsburgh derives its statutory authority to tax, sets forth no rules with respect to the time of year that the City may enact new taxes. In fact, the Local Tax Enabling Act contemplates mid-year tax changes. Section 307, 53 P.S. § 6924.307, allows cities imposing a tax under the Local Tax Enabling Act to revise its budget during any fiscal year by increasing or making additional appropriations from funds to be provided by such tax.

One legal prerequisite to a municipality’s enacting a new tax is notice of the municipality’s intention to do so. 53 P.S. § 6924.306. The notice must set forth the substantial nature of the tax or license fee to be imposed, the reason that the tax is necessary, and the amount of revenue estimated to be derived from the tax. *Id.* The municipality must advertise the notice once a week for three weeks in a newspaper of “general circulation” within the municipality. Then, fifteen days after the effective day of the new tax, an exact printed or typewritten copy of the ordinance or resolution, certified by the secretary of the taxing body, must be filed with the Department of Community and Economic Development. 53 P.S. § 6924.310. As long as the City follows these rules, the City can enact a new tax at any time during the fiscal year.

Legislation is retroactive when it “relates back and gives a previous transaction a legal effect different from that which it had under the law in effect when it transpired.” *Bureau of Employment Security v. Pennsylvania Engineering Corp.*, 421 A.2d 521, 523 (Pa. Commw. Ct. 1980). Retroactive application of new legislation offends due process if, balancing the interests of both parties, its application would be unreasonable. *Krenzelak v. Krenzelak*, 469 A.2d 987, 991 (Pa. 1983). When balancing the government’s interest in collecting revenue against a taxpayer’s competing interest in not having different tax rules apply to a completed transaction, the test is whether the taxpayer has had its expectations regarding taxation unreasonably disappointed by the retroactive imposition of a burden it could not reasonably have been expected to anticipate. *See Surgical Laser Technologies, Inc. v. Com., Dept. of Revenue*, 626 A.2d 664, 670 (Pa. Commw. Ct. 1993) (citing *Temple University v. United States*, 769 F.2d 126 (3d Cir. 1985), cert. denied, 476 U.S. 1182 (1986)).

Courts typically strike down retroactive ordinances in cases of quid-pro-quo. For example, in *City of Erie v. Griswold*, 5 Pa. Superior Ct. 132 (1897), an 1880 city ordinance gave property owners who paved their property at their own expense a tax abatement equal to 5% of the cost of paving for a term of ten years. In 1985, the city abolished the abatement, and the court held that the 1985 abolishing ordinance could not be applied to those property owners who had paved their property before its enactment. Rather, these taxpayers were entitled to the full ten-year abatement, because the subsequent ordinance would have affected the vested rights of taxpayers under the original ordinance, which created a quasi-contractual relationship between the city and the property owners who incurred the paving expense in reliance on the 1880 ordinance.

In the present case of mechanical amusement devices and skill games, if the City of Pittsburgh were to enact a tax ordinance in mid-2026 purporting to levy taxes on transactions that occurred prior to the ordinance’s enactment, the City would almost certainly be challenged based

on retroactivity. The outcome of the case would depend largely on the court’s application of the balancing test described above and would ultimately come down to the “reasonableness” of retroactive applicability. The safer option would be to impose the tax only prospectively to transactions or activities occurring after the new tax ordinance’s enactment date.

Regardless of whether the City elects to impose retroactive or only prospective taxes on mechanical amusement devices and skill games, the City does have authority under the Local Tax Enabling Act to enact the tax at any time during the current fiscal year in order to tax transactions and activities occurring after the enactment of the tax.

3. Have there been any appeals to the *Three Pennsylvania Skill Amusement Devices* case or other cases concerning the definition of skill games/slot machines before the Commonwealth Court of the Pennsylvania Supreme Court? If yes, are there any judgments/rulings that diverge from the Commonwealth Court’s findings in *Three Pennsylvania Skill Amusement Devices*?

Three Pennsylvania Devices

In *Three Pennsylvania Devices*, 306 A.3d 432 (Pa. Commw. Ct. 2023), the Commonwealth had confiscated certain skill game machines under the Crimes Code, 18 Pa.C.S. § 5513(a). Section 5513(a) of the Crimes Code prohibits slot machines and gambling devices outside the framework of the Pennsylvania Gaming Act, 4 Pa. C.S.A. §§ 1101 to 1904. The owners of the skill game machines filed a petition for return of the property, which proceeded to the Commonwealth Court on appeal.

The Commonwealth Court held that skill games are not slot machines or gambling devices under the Crimes Code, because they can be beaten with sufficient skill. *Three Pennsylvania Devices* at 440, 445. Because the skill games were not slot machines or gambling devices under the Crimes Code, the Commonwealth Court ordered the return of the property to the owners. *Id.* at 445.

Three Pennsylvania Devices has been appealed by the Commonwealth to the Pennsylvania Supreme Court, which in June of 2024 agreed to decide the following issues: (1) Does an electronic slot machine cease to be an illegal “gambling device,” governed predominantly by chance, if the machine’s manufacturers embed into its programming a so-called “skill” element that is almost entirely hidden from view and is almost impossible to complete?; and (2) “Should gambling statutes governing “slot machines” be read *in pari materia* to supply an appropriate definition of the term?” *In re: Three Pennsylvania Skill Amusement Devices*, 320 A.3d 673 (Table) (Pa. 2024).

Publicly available docket information shows that the case was argued before the Supreme Court of Pennsylvania on November 20, 2025. While impossible to predict, the Supreme Court will likely render a decision in the case in 2026.

POM of Pennsylvania

Another Commonwealth Court case dealing with skill games is *POM of Pennsylvania, LLC v. Department of Revenue*, 221 A.3d 717 (Pa. Commw. Ct. 2019). *POM of Pennsylvania* dealt with similar facts to *Three Pennsylvania Devices*. From March 2017 until June 2018, the City of Philadelphia seized eleven skill game devices. Pace-O-Matic (POM), an entity that supplies skill game software, petitioned the Commonwealth Court’s original jurisdiction seeking a declaratory judgment that the seized skill games were legal devices under Pennsylvania law. Ultimately, the issue before the Commonwealth Court was whether the Gaming Act applied to POM’s skill games. *POM of Pennsylvania*, 221 A.3d at 726.

The court in *POM of Pennsylvania* examined the text of the Gaming Act, along with its legislative history, and found that the Gaming Act was not intended to regulate unlicensed and illegal slot machines in the Commonwealth. *Id.* at 733. Rather, the legislative intent outlined in the Gaming Act demonstrated to the Commonwealth Court that the General Assembly only intended the Gaming Act to regulate legal and licensed gaming, and licensed slot machines in licensed facilities. *Id.* at 731-32. In the court’s view,

[T]he Gaming Act was intended to license slot machine operations at racetracks, casinos, hotels, and established resort hotels. Thus, its intent was to provide licenses to large, individual slot machine operations that raise millions of dollars in revenue. The POM Games are not located at any of these types of facilities and there is absolutely no suggestion in these provisions of the Gaming Act, or any other provisions of the Act, that the Gaming Act was intended to apply to the facilities where the POM games are located, e.g., taverns and social clubs, or that the Gaming Act regulates the placement of slot machines at such facilities.”

Id. at 731. The conclusion in this case is consistent with the conclusion in *Three Pennsylvania Devices*. Under the Commonwealth Court’s decision in *POM of Pennsylvania*, the Gaming Act does not apply to skill games. *Id.* at 736 (“Because the plain language of the Gaming Act indicates that the General Assembly did not intend for the Gaming Act to regulate unlicensed slot machines which fall outside the ambit of the licensed facilities clearly delineated by the Gaming Act . . . we conclude that the POM Game is not subject to the Gaming Act.”).

Like *Three Pennsylvania Devices*, *POM of Pennsylvania* is currently pending review by the Supreme Court of Pennsylvania. Public records show that *POM of Pennsylvania* was argued before the Supreme Court on November 20, 2025, the same day that *Three Pennsylvania Devices* was argued.²

² See <https://www.youtube.com/watch?v=hFUQK8-8ApY> for audio of the oral arguments in the *Three Pennsylvania Devices* and *POM of Pennsylvania* cases before the Pennsylvania Supreme Court.

Better Bets Ventures

The Pennsylvania Supreme Court decided a 2025 case involving skill games in *Better Bets Ventures, LLC v. Pennsylvania Gaming Control Board*, 332 A.3d 1204 (Pa. 2025). However, the question before the *Better Bets* court was not whether skill games are lawful to operate in unlicensed facilities or whether they constitute unlicensed slot machines, unlawful gambling devices, or the like. Rather, the issue before the *Better Bets* court was whether the Pennsylvania Gaming Control Board is entitled to deference in determining whether an applicant to operate a skill game has the requisite “good character, honesty, and integrity” to be licensed under the Video Gaming Act, 4 Pa.C.S. §§ 3101-4506.

Other cases

Other higher court decisions in Pennsylvania related to skill games include:

- *Com. V. One (1) Jersey Hold'em Machine Serial No. DDGPA0003*, 2014 WL 10749241 (Pa. Super. 2014) (not reported)
 - The Commonwealth Court upheld the trial court’s decision that the skill game machines at issue were games of skill rather than chance because: (1) the results as to the high win percentage and payout percentage following the testing of the machines for a period of six (6) weeks; (2) unlike traditional casino slot machines, these machines only operate if the customer manually initiates the stop buttons; (3) neither machine is equipped with a “random number generator” in the source codes; (4) the order of the symbols/cards on the respective reels, although not sequential, is fixed; (5) there existed a consistency in how far the reel would continue to travel before it came to a complete stop after the button was initiated; and (6) there was no dispute that both machines were significantly modified
- *Pinnacle Amusement, LLC v. Bureau of Liquor Control Enforcement*, 298 A.3d 447 (Pa. Commw. Ct. 2023)
 - The Commonwealth Court upheld the trial court’s decision that the skill game machines at issue were games of skill rather than chance.
- *Gracie Technologies, Inc. v. Commonwealth*, 2020 WL 1231395 (Pa. Commw. Ct. 2020) (not reported)
 - **This case diverges from the common trend of *Three Pennsylvania Devices and POM of Pennsylvania*.**
 - The Commonwealth Court upheld the trial court’s decision that the skill game machines at issue were predominantly games of chance rather than games of skill.

The trial court had taken evidence on the nature of the games at issue in this case. The trial court concluded that the games at issue were not games of skill, because the specific way in which the game operated was almost entirely based on chance.

- The Commonwealth Court in *Pinnacle*, above, cited *Gracie*. The court in *Pinnacle* distinguished the games at issue in *Pinnacle* from the games at issue in *Gracie* because of specific differences in the ways the games in each case were played. The *Pinnacle* court found a greater element of skill in the games before it versus the games at issue in *Gracie*.

4. Is it “better” or “safer” relative to likelihood of lawsuit challenges to have a tiered system, flat fee, or targeted skill game tax?

The Uniformity Clause of the Pennsylvania Constitution requires uniformity of taxation on “the same class of subjects” within the territorial limits of the authority levying the tax. Pa. Const. art. 8, § 1. Taxing authorities in the Commonwealth do have the power to create reasonable classifications of subjects of taxation:

Classification for the purpose of taxation may be based on the existence of differences recognized in the business world, on the want of adaptability of the subjects to the same method of taxation, upon the impracticability of applying to them the same methods so as to produce justice and reasonably uniform results, or upon well grounded considerations of public policy.

Appeal of Borough of Aliquippa, 175 A.2d 856, 863 (Pa. 1961). However, the Uniformity Clause mandates that “there must be no lack of uniformity within the class, either on the given subject of the tax or the persons affected as payers.” *Saulsbury v. Bethlehem Steel Co.*, 196 A.2d 664, 666 (Pa. 1964).

Although the primary purpose of the Uniformity Clause is to ensure that all tax laws produce equality of tax burden within a particular class, it does not require absolute equality or perfect uniformity. *Nextel Communications of Mid-Atlantic, Inc. v. Commonwealth, Department of Revenue*, 171 A.3d 682, 696 (Pa. 2017). Rather, if there is “substantial uniformity, which means as nearly uniform as practicable in view of the instrumentalities with which and subjects upon which tax laws operate,” the constitutional requirement has been met. *Id.*

When an inequality is created by a law that divides the subjects of a particular tax into various classes, the standard to be used in determining whether the law violates the Uniformity Clause is “whether the classification is based upon some legitimate distinction between the classes that provides a non-arbitrary, reasonable, and just basis for the disparate treatment.” *Id.* When challenging a tax under the Uniformity Clause, the burden is on the taxpayer to show that a tax

“clearly, palpably, and plainly violates the Constitution by demonstrating that no reasonable distinction exists between the classes.” *Id.*

With these principles in mind, the “safest” option would be a flat fee for all mechanical amusement devices, lest a skill games operator would sue the City arguing that skill games should be treated the same as other mechanical amusement devices. However, if presented with such a lawsuit, the City would have ample space to argue that a tiered or targeted skill games tax is justified under the Uniformity Clause, based on the fact that such a classification would be based on a legitimate distinction between what are, essentially and regardless of case law to the contrary, gambling devices, versus other typical mechanical amusement devices like pinball machines.

Please let us know if you have further questions.

Respectfully submitted by:

/s/ Forrest Paul
Assistant City Solicitor