

## **The Illegal Use of Video Poker Machines by Public Bars and Private Social Clubs in Pennsylvania: It's a Rational Choice**

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### **Abstract**

The illegal use of video poker machines by public bars and private social clubs is currently a multi-billion dollar industry in Pennsylvania. For many of these public bars and private social clubs, the income generated from video poker machines is the lifeblood of their businesses. These bar owners and private club trustees have rationally chosen to violate Pennsylvania's gambling laws either to help sustain their businesses, increase profits, or lower their prices to increase patronage. How widespread is this illegal enterprise and what are the policy implications for the State of Pennsylvania?

### **Introduction and Background**

On August 3, 1996, the US Congress created the National Gambling Impact Study Commission. In 1999 the Commission issued its final report, stating in the opening paragraph:

In 1998, people gambling in this country lost \$50 billion in legal wagering, a figure that has increased every year for over two decades, and often at double-digit rates. And there is no end in sight: Every prediction that the gambling market was becoming saturated has proven to be premature (Page 1-1).

According to the Commission, gambling, in its many forms, is a part of the U.S. culture. Unfortunately, the information gathered by the Commission dealt almost exclusively with the many legal forms of gambling across the U.S. The Commission devoted only five pages of its more than two-hundred and fifty page report to illegal gambling, addressing only illegal sports wagering and "stand alone electronic gambling devices." Both of these have their legalized counterparts in some states. Further, the Commission approached the illegal aspects of these forms of gambling only after studying these

phenomena in the states where they are legal. The most difficult problem stated by the Commission in its study on the impact of gambling was that of gathering “reliable information” (p. 1-6). The “reliable information” referred to by the Commission pertained to legalized gambling, not illegal gambling which was barely addressed, and although there is a great deal of literature about the nature and consequences of gambling, information on gambling rates through the illegal use of “stand alone gambling devices” is virtually non-existent.

The purpose of this research project is to expand upon the information gathered by the Commission. This case study endeavors to determine the extent to which illegal video poker machines are utilized in the 257 public bars and 87 private social clubs in Lehigh County, Pennsylvania. Additionally, this study examines Pennsylvania’s law enforcement efforts to prevent these illegal gambling activities.

### **Pennsylvania Gambling Laws**

Pennsylvania legislators revised the state’s laws in 1972 and 1981, drafting an extremely liberal modern gambling law. At the present time, Pennsylvania has only three laws against gambling. These deal with lotteries, gambling devices, and bookmaking. Interestingly, these laws only apply to individuals earning a profit from those who gamble, and not the gamblers themselves. Each offense is deemed a misdemeanor (18 Pa. C. S. A. ss 5513).

### **Video Poker Machines**

In the late 1970’s, advances in computer technology brought video games to the public in the form of new arcade games such as Space Invaders, Asteroids, and Pac Man. Inevitably, this new technology also came to be applied to gambling devices. The old, bulky, slow moving, cast iron slot machines were replaced with new and faster computerized machines. The new computerized machines worked much differently, changing the way people gambled in a number of ways: (1) the games could be played at a much faster speed; the new machines accepted paper money instead of coins; (2) they allowed the gambler to play more than one credit at a time (up to forty-five credits per spin); (3) utilizing the multiple-play credit system allowed the operator to easily manipulate the profit margin produced by the game; and, (4) allowed for a variety of new gambling games to be created and mechanized, such as video poker and blackjack. The vending companies which already supplied many private social clubs and public bars with jukeboxes, cigarette machines, small games of chance, and pool tables, were now also able to supply video poker machines to these establishments.

**Private Social Clubs and Public Bars: Similarities and Differences.**

Private social clubs and public bars are similar in that they provide the same basic services to their customers. Both hold a license to sell and serve alcoholic beverages, provide a warm and friendly atmosphere for their customers, and may provide recreational activities such as darts, billiards, shuffle board, pinball machines, music, and dancing.

Although these two types of establishments offer similar services, the differences between them are striking. For example, public bars normally have only one or two owners who run their business for profit and income. Private social clubs, by contrast, are owned by the membership, run by an elected board of trustees, and are non-profit organizations with all generated income to be used to benefit the membership.

Moreover, there are no access restrictions for public bars. Any individual who is of legal drinking age and in good standing with the ownership may frequent the establishment. However, there are severe access restrictions for those individuals who frequent private social clubs. To enter one of these establishments, an individual must be an active member. Membership is restricted to those individuals who are recommended by two current members and approved for membership by the board of trustees. Upon becoming a member, an individual receives a membership card and a key or key-card which allows them to enter the establishment. The doors to the clubs are locked to the public at all times.

Another major difference between private social clubs and public bars, is that bars are open to the public and therefore, open to greater public and law enforcement scrutiny. The trustees and members of social clubs can more readily keep their activities out of the view of both the public and law enforcement agents.

Also worth noting, is that many public bar owners, for the most part, are a stable entity who own and run their business in a similar fashion over a long period of time. Most private social clubs are much less stable however. The membership and thus the ownership may vary greatly from year to year, as can the people elected by the membership to run the social club. The manner in which a social club is run may change frequently.

Clearly, public bar owners, who are sole proprietors or partners, have a financial stake in the operation of their business. Those individuals who operate the private social clubs have little or no personal financial stake in the operation of the club, other than increasing the benefits received by the membership or some small amount of remuneration for their time and efforts.

Being elected as a trustee in a social club carries a great responsibility. A social club is run as any other similar type of business is run. The trustees are required to take charge of the daily operation of the business. Trustees must staff the business with bartenders, cooks if there is an open kitchen, waiters and waitresses, and cleaning people. Trustees must also keep inventory; supply the facility with food, liquor, bathroom and cleaning supplies; pay the bills; and keep membership rolls. However, the two most important jobs for the trustees are to keep the liquor prices down while maintaining a slight profit, and providing various types of entertainment to satisfy the membership. Failure in these two important areas would lead to loss of revenue and membership, which would eventually cause the club to close down.

Because the majority of members of these social clubs live nearby (most of these social clubs are neighborhood establishments, especially the ethnic clubs and the volunteer fire companies), the club trustees are leaders and respected members of the neighboring community. For many, these social clubs are considered a home away from home, a place to gather with friends and relatives. These clubs offer a variety of entertainment opportunities for their members including, holiday parties for adults and children, picnics, dances, pool leagues, dart leagues, and bowling leagues. Some social clubs will allow for a token salary of one thousand dollars per year or less, but most trustees receive no wages at all. Thus, the responsibility for running these social clubs becomes part of their identity.

Even though these social clubs offer their members a wide variety of entertainment opportunities, by the late 1970's, specifically in Lehigh County, Pennsylvania, memberships in all of the social clubs that this author was a member of or was a trustee in, began to rapidly decline, along with many other social clubs with which the author had a loose affiliation. At that time, many of these social clubs were desperately trying to discover a new means of providing entertainment to their current members and to entice new members to join and enhance their clubs' income. They found a solution in the form of gambling. Over the past twenty years, through playing pool in leagues and tournaments across Lehigh County, Pennsylvania, this author has frequented more than fifty different social clubs. He has personally never entered a social club without witnessing some form of gambling taking place.

### **Video Poker Machines in Clubs and Bars**

Since the early 1970's, the State of Pennsylvania has allowed private social clubs to purchase a Small Games of Chance license, which is issued by the county in which the business establishment is located. Small games of chance consist mostly of punch boards, rip tickets, and raffle tickets. In Lehigh County, Pennsylvania, the current annual fee for a small games of chance license is \$135. This license provides private

social clubs with the opportunity to raise income through gambling. Unfortunately for these establishments, small games of chance provide little income, amounting to only a few hundred dollars per month.

Then came the arrival of video poker machines. The new gambling devices were a virtual godsend for the numerous private social clubs in Lehigh County. The clubs were the first non-casino establishments to obtain and utilize video poker machines. Through the use of these devices, every social club of which the author was a member of or a trustee in was able to provide additional gambling entertainment, increase their membership, and greatly enhance their income. By the late 1970's, the majority of the social clubs that the author frequented had installed video poker machines. Currently, every social club that the author frequents has poker machines in use.

With the installation of the video poker machines, the social clubs began to thrive. Membership began to increase, as did club income. As the memberships and income for these social clubs continued to increase, the patronage and income of the neighborhood bars, taverns, and hotels (hereafter collectively referred to as bars or bar owners) began to decrease. These were not social clubs where the membership shared in the costs and benefits derived by the club, these were business people whose livelihood depended upon patronage. The bar owners used their income to pay their mortgages, and feed and clothe their families. A drop in patronage meant a drop in income, so many of these bar owners began to place video poker machines in their businesses, obtaining them from the same vendors that supplied the social clubs. They expected their patronage and profits would increase just as it did for the social clubs. The bar owners' expectations were met, as they discovered that their patrons had the same propensity to gamble as did the patrons of the social clubs.

### **Patron Propensity to Gamble in Liquor Licensed Establishments**

With the public bars and private social clubs now providing their patrons with numerous opportunities to gamble on the premises, including the opportunity to use video poker machines, gambling has become as much a part of the social life as the consumption of alcohol. The individuals frequenting the public bar and private social club scenes in Lehigh County, Pennsylvania are not very different from those "blue-collar aristocrats" observed in a Wisconsin tavern by E. E. LeMasters (1975), who found that whether it be a game of cards, darts, billiards, shuffleboard, or televised sporting events, the bar patrons' desire to gamble is inexhaustible. According to LeMasters (1975), the Wisconsin bar customers would gamble on any event with an uncertain outcome. He believed that the patrons used gambling as a defense against the boredom of their everyday lives, and that they had both the time and money to indulge themselves in

these types of activities, which the individuals believed enhanced their lives (LeMasters, 1975).

An example of Pennsylvania patrons' propensity to gamble can be found at the Pigeon club<sup>1</sup> in Lehigh County, Pennsylvania. At the Pigeon club, every Friday night is poker night. There is a poker table set up in the club and placed in the open so that anyone can join the game at any time. The poker game begins at around eight o'clock in the evening and ends at around four or five o'clock in the morning. There are four or five regular players and numerous others join in, or donate their money to the regulars throughout the night. A good winning poker hand can generate winnings upwards of five hundred dollars. The regulars at these weekly poker nights usually win or lose between three hundred to one thousand dollars a night.

In addition, there are four video poker machines in the club that allow patrons to gamble at leisure. For those who do not play poker, placing a quarter on a pool table allows one to gamble moderate amounts of money on a game of eight-ball or nine-ball. Gambling at billiards can range from one dollar to five hundred dollars per game. However, the normal amount wagered is ten dollars per game.

One example of gambling in these establishments occurred recently on a typical Thursday night, which was a pool league night at a private social club, called the Hilltop Tavern.<sup>2</sup> The author arrived at the tavern at seven o'clock that night. There he met Johnny L., a self-employed electrician who had just received his wages for a job recently completed. He spoke with Johnny for about twenty minutes while he gambled at one of the four video poker machines in the tavern. While he and Johnny were talking, Johnny lost forty dollars in the machine. As Johnny placed another twenty dollars in the machine, the author went to the bar for a drink. When he came back, Johnny had won one hundred sixty dollars and wanted the bartender to "cash him out." As Johnny received his money, the author congratulated him on the big win. Johnny told him that he did not win anything. He had been playing the video poker machine for the past four hours and had lost more than three hundred dollars.

The author subsequently spoke with Gerry S., a construction worker, as he was leaving the video poker machine he had been playing for approximately one hour. He asked Gerry how he had fared. He complained about his bad luck and told him that he had

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<sup>1</sup>It should be noted that the name Pigeon Club is a pseudonym, and not the name of the actual club.

<sup>2</sup> It should be noted that the Hilltop Tavern is a pseudonym and not the actual name of the establishment.



lost two hundred dollars at the machine. Gerry has a video poker machine in the basement of his home which he plays on a daily basis. Nevertheless, he enjoys gambling on the machines at the tavern where he is a club trustee. The previous two examples are of individuals who gamble large amounts of money, though Johnny and Gerry are not typical of most gamblers at these clubs. The author's personal experience observing gambling on these machines has shown that the normal amounts played by most individuals are between ten and thirty dollars per night.

Later in the night, the author asked Dominic B., a truck driver and regular video poker gambler, why he was not gambling at the video poker machines. Dominic told him that he had already lost one hundred fifty dollars at the video poker machines in a different club before he had arrived at the Hilltop Tavern. He said that instead, he intended to play the rip tickets because he wanted to win a set of NASCAR floor mats for his car. Rip tickets give away prizes in addition to money. Dominic then waged one hundred ten dollars on the rip tickets, for which he received one twenty-five-dollar winning ticket, two one-dollar winning tickets, and the floor mats. Dominic walked away very happy as he had won the floor mats he hoped for.

This was a typical night in virtually any public bar or private social club found in Lehigh County Pennsylvania. The patrons of these establishments enjoy socializing, drinking alcoholic beverages, playing games, and have the propensity to gamble. As LeMasters (1975) found, the patrons gamble for entertainment and as a means to help relieve their boredom. Entering these public bars and private social clubs is a part of the patrons' routine activities. Many of the patrons frequent these types of establishments several times per week, or on daily basis.

### **Law Enforcement of Liquor Licensed Establishments**

The Liquor Control Board (LCB) is the state licensing agency for all businesses that desire to serve alcoholic beverages in their establishments. The agency in charge of enforcing Pennsylvania's liquor laws is the state Liquor Control Enforcement (LCE). Both the LCB and LCE are divisions of the Pennsylvania State Police.

The State of Pennsylvania has approximately 150 LCE<sup>3</sup> agents posted throughout the state, most of whom are office workers. In Lehigh County, Pennsylvania, there are currently only three agents working in the field, enforcing the liquor laws for the 350

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<sup>3</sup> All information given on the enforcement of the liquor laws in Pennsylvania was obtained through extensive interviews with the LCE Lieutenant in charge of Eastern Pennsylvania, on November 23, 1999 and January 4, 2002.

licensed businesses. The field agents in Lehigh County visit liquor establishments throughout the county on a daily basis, checking for liquor code violations, including video poker machines. When policing public bars, the agent may strive to be as anonymous as possible in order to observe the patrons', bar employees', or bar owner's behaviors, or to enforce the laws. However, to be an anonymous visitor of one of the 87 private social clubs, the agent must either be a member of the club or have a member of the club aid him in gaining admittance for observation and law enforcement purposes. Otherwise, he must identify himself as a LCE agent or have a warrant to search the establishment, in which case the club members and employees would be on guard and avoid liquor code violations by not utilizing the machines (the machines themselves are not illegal; paying winning gamblers is illegal). Considering the nature of the agent's employment, and the perceived stake that each member has in his social club, it appears difficult at best for the LCE agents in Lehigh County to gain anonymous access to the large number of private social clubs found in the county.

Due to the monitoring difficulties and a lack of LCE field agents,<sup>4</sup> approximately 95% of all gambling violation enforcement for both public bars and private social clubs occur following a complaint by a private citizen filed with the LCE. Such complaints may be filed for a variety of reasons. The complaint may be filed by the spouse of an individual with a gambling problem who is gambling away the majority of their earnings into video poker machines (the complaint most often received); the complainant may feel that the video poker machines at the establishment he/she frequents does not payoff at a fair rate; the complainant may have been barred from the establishment and wants revenge; or, a competitor may feel they are losing business to another bar or club and may file a complaint to injure their competitors' business.

Upon receiving the complaint, the LCE agent can easily verify if video poker machines are being utilized in a public establishment. Obviously, it is more difficult to establish a violation in a private establishment, since the agent must first gain entry. The receipt of a complaint is generally sufficient to gain a warrant to enter any liquor licensed establishment. A warrant is not necessary for the LCE to enter an establishment for violation inspection - all businesses with a liquor license must by law allow the LCE to inspect the premises at any time and for any reason, or face the possibility of losing their license.

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<sup>4</sup> All information given on the enforcement of the liquor laws in Pennsylvania was obtained through extensive interviews with the LCE Lieutenant in charge of Eastern Pennsylvania, on November 23, 1999 and January 4, 2002.



Any working video poker machine found on the premise is immediately confiscated along with any monies earmarked to pay those individuals who may win money on the machines (usually most bars and clubs keep \$500 on hand to pay the winners), and any monies found inside the machines<sup>5</sup>. The machines are then inspected to determine if they have a “knock-off switch.” A knock-off switch is simply a switch that resets the machine after an individual is finished playing the machine and has credits remaining on it. The individual receives money for the remaining credits (usually each credit is worth \$.25) on the machine and then the machine is reset to zero credits for the next player to begin. The assumption is that unless the bar or club was paying-off the winning gamblers, a knock-off switch is unnecessary. If a knock-off switch is found inside the machine, the machines and monies are confiscated, and the establishment is then given a citation to appear in court. Following the hearing for the gambling violations, the machines are promptly destroyed.

The sanctions incurred for violation of the State’s gambling laws can range from fines of \$50-2002 and/or the establishment can be closed down for a period ranging from one day to three weeks. The sanctions are scaled in accordance with how often, and how many liquor code violations have occurred at the establishment over the previous few years. The State utilizes a four year period of time for the scaled sanctions. If an establishment incurs three violations for video poker machine use over a four year period of time, that establishment can have its liquor license permanently revoked.

### **Theoretical Framework: Rational Choice Theory**

The concept that humans are rational, calculating beings, who use their free will to make decisions based upon the primacy of self-interest, comes from the classical view of human nature (Becarria, 1764 and Bentham, 1892). Rational Choice is an integrated theory that assumes that crimes occur when an individual perceives that the benefits of criminal activity outweigh the costs incurred if caught committing the crime (Cornish and Clarke, 1986) .

Cornish and Clarke (1986) posit that the degree of available opportunity and the perceived effort needed to commit a crime play as important a role in crime deterrence as do the perceived certainty, swiftness and severity of punishment for the criminal act. Through the rational choice perspective, the likely offender decides upon a particular type of crime, to be committed at a specific place and time, depending on his/her

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<sup>5</sup> All information given on the enforcement of the liquor laws in Pennsylvania was obtained through extensive interviews with the LCE Lieutenant in charge of Eastern Pennsylvania, on November 23, 1999 and January 4, 2002.

examination of salient factors: the number of targets and their accessibility; the familiarity with the chosen method; the monetary yield per crime; the expertise needed to commit the crime; the time required to commit the act; the physical danger involved; the risk of being caught, and the penalties incurred if caught (Cornish and Clarke, 1986). Utilizing the rational choice model of crime deterrence, Cornish and Clarke (1986) believe that a reduction in criminal behavior can be accomplished not only through increasing formal and informal sanctions, but by reducing criminal opportunities and increasing the perceived effort required to commit the offense.

According to the rational choice deterrence model, crime reduction cannot be accomplished in a wholesale manner. Crime takes many different forms and each crime type is specific and situational in character. For example, the available opportunities, effort required, and perceived rewards and sanction costs are very different for auto theft than for burglary. In turn, these are very different from shoplifting and employee theft. Further, Cornish and Clarke (1986) believe that because humans are rational, calculating beings, they will be motivated to differing degrees depending on the type of crime being committed. Cornish and Clarke (1986) hold that by studying specific types of crime, such as auto theft, and the specific types of criminals that commit this crime, a variety of situational specific techniques could be developed to reduce a given type of crime, whether it be through a reduction in opportunity, increase in effort necessary to commit the crime, or an increase in perceived certainty, swiftness or severity of sanctions.

The rational choice deterrence model has been supported by numerous studies examining a wide variety of conventional crimes: corporate crime (Paternoster, Simpson, 1996); drug markets and sales (Eck, 1994); drunk driving, theft, sexual assault (Nagin, Paternoster, 1993); drunk driving and shoplifting (Tibbetts, 1997; Piquero, Tibbetts, 1996; Tibbetts, Herz, 1996); middle and high school violence (Lockwood, 1997); pedophilia (Proulx, Ouimet, Lachaine, 1995); port, marina, and vessel thefts (Peck, Mueller, Adler, 1994); ransom kidnapping (Marongiu, Clarke, 1993); tax evasion (Grasmick, Bursik, Cochran, 1991; Klepper, Nagin, 1989); terrorism (Taylor, 1993); and, urban park offending (Michael, 1997).

The present research examines the illegal gambling activities of small liquor licensed businesses in Lehigh County, Pennsylvania. Utilizing the rational choice deterrence model, this study attempts to analyze the benefits, efforts, and sanction risks of video poker machine gambling perpetrated by these small businesses. Further, this research attempts to determine whether these small businesses are acting rationally by comparing the true (not perceived) benefits against the real efforts necessary to commit this type of illegal activity and the actual sanctions if the business is caught in this endeavor.

## Methodology and Research Questions

This research endeavors to discover the answers to a number of research questions regarding the use of video poker machines by bars and social clubs in Lehigh County, Pennsylvania.

The first research question asks: in Lehigh County, Pennsylvania, to what extent are the public bars and private social clubs utilizing video poker machines for illegal gambling purposes? Moreover, are there any differences between the bars and clubs that use (or do not use) the machines with respect to: business type, machine volume, and income generation? It was hypothesized that : (1) the vast majority of liquor licensed businesses in Lehigh County would utilize video poker machines; (2) that private clubs would employ more poker machines than public bars; and, (3) that individuals would gamble more money with greater frequency in private social clubs than in public bars. There would consequently be major differences in income generated by these two types of establishments.

The second research question asks: to what extent is the LCE enforcing the gambling laws regarding video poker machines in Lehigh County? Moreover, are the laws being enforced equally between public bars and private social clubs? It was hypothesized that only a small percentage of liquor licensed establishments throughout Lehigh County would be cited for gambling each year and that the gambling laws would be disproportionately enforced to a greater degree against the public bars.

The final research question asks: are the current sanctions for the illegal use of video poker machines effective in deterring their use by Lehigh County liquor licensed establishments? It was hypothesized that the vast majority of these private social clubs and public bars would choose to violate the gambling laws, and would continue to do so even following the receipt of a citation and sanctions for the use of the machines.

To answer these questions, data were gathered through a number of different sources. First, a listing of the total population of liquor licensed establishments in Lehigh County, Pennsylvania, was obtained through the LCB. Second, information reflecting the entirety of citations written and sanctions given by the State to all these liquor licensed small businesses from 1996 through 2002, was secured through the Pennsylvania Tavern Association. Finally, data were collected through interviews with public bar owners and private social club trustees in Lehigh County, Pennsylvania.

## Study Population

The study population of the liquor licensed establishments (n=344) in Lehigh County was divided into two separate categories, public bars (n=257), and private social clubs or clubs (n=87), to determine the extent of any differences between public and private establishments in their video poker machine usage, cash flow, law enforcement, sanctions received, and the recidivism rates of those previously sanctioned. A random sample of bars (n=30) and social clubs (n=30) was selected and interviewed to determine the extent of illegal gambling activity; whether these small business decision-makers perceive that the benefits gained from the illegal behavior outweighs the cost of sanctions if caught; and the equality, extent and effectiveness of the deterrence measures currently practiced. A sample size of 60 liquor licensed businesses constitutes approximately 20% of the total population of these businesses for Lehigh County.

## Methodology

The bar owners and club trustees who agreed to participate in this study were questioned regarding the establishments' membership size (for private social clubs); poker machines in use; number of years utilizing poker machines; gambling income generated by poker machines and small games of chance (for private social clubs); percentage of overall income derived through gambling; whether poker machines are owned or leased; vendor agreements; if they were ever cited for gambling machine infractions, and if so, the fines received and total costs of sanctions. The interview information was then coded and placed on computer discs, and the hard copies were destroyed.

To examine the recidivism rates of those liquor licensed businesses in Lehigh County, the researcher utilized the Pennsylvania Tavern Association data to create a list of all liquor licensed establishments that had previously received gambling citations for video poker machines from 1996 through 2002. With this information, the researcher visited each previously cited establishment not participating in the interviews and used observational techniques to determine whether video poker machines were currently in use, thus showing that business as a recidivist.

## Results and Analysis

### *Video poker machine use and income generation*

Of the 60 businesses included in this study, all of the 30 private social clubs and 30 public bars utilized video poker machines. In the 30 private social clubs an average of 3.8 machines were in use per establishment. The mean annual gambling income from video poker machines in these clubs was \$79,120, with the percentage of the business' overall income generated through gambling averaging 69.6% (Table 1). For the 30 interviewed public bars, there was an average of 1.9 machines in use per establishment. The mean annual gambling income from video poker machines was \$25,040, with the percentage of the bars' overall income generated through gambling averaging 28% (Table 1). Regarding the first research question, the hypothesis is supported. Private social clubs not only provide their patrons with more opportunities to gamble but also generate more than three times the gambling income that public bars do.

**Table 1: Interview Results Comparing Income and Poker Machine Usage in Lehigh County**

<b>Interview Results</b>	<b>Private Clubs</b>	<b>Public Bars</b>
establishments with video poker machines	n = 30	n = 30
video poker machines in establishments		
total number of machines	114	57
range of machines per business	2-10	1-3
mean machines per business	3.8	1.9
standard deviation	1.47	.48
annual business income from small games of chance		
range of income per business	\$2400-30,000	N/A
mean income per business	\$9,260	N/A
standard deviation	\$6,490	N/A
annual business income from video poker machines		
range of income per business	\$18,000-360,000	\$4,800-54,000
mean income per business	\$79,120	\$25,040
standard deviation	\$71,337.60	\$13,665.71
annual business combined gambling income		
range of income per business	\$20,400-390,000	\$4,800-54,000
mean income per business	\$88,380	\$25,040
standard deviation	\$77,142.90	\$13,665.71
percent of total business income from gambling		
range of income per business	25-100%	5-60%
mean income per business	69.6%	28%
standard deviation	21%	14%



*Enforcement equality between private social clubs and public bars*

Lehigh County has 344 liquor licensed establishments that are a part of this study. There are 87 private social clubs and 257 public bars. Utilizing the violation records accumulated by the Pennsylvania Tavern Association from 1996-2002, an analysis of the gambling citations handed out by the Liquor Control Enforcement in Lehigh County was performed. The analysis revealed that from 1996-2002, 29 of the 87 private social clubs received a total of 33 illegal gambling citations, with fines totaling \$20,270 and a mean fine of \$614 per citation. Fifteen of the 257 public bars received a total of 16 illegal gambling citations totaling \$9,540 in fines with a mean of \$596 per citation. Throughout Lehigh County, there were 49 gambling citations written with fines totaling \$29,810, a mean of \$609 per citation (Table 2).

When examining the second research question concerning the equality of enforcement for illegal gambling in Lehigh County, the hypothesis that public bars would be cited for illegal gambling at a higher rate than private social clubs was not supported. These figures clearly reveal that citations for illegal gambling per Lehigh County business unit are given to private social clubs at more than double the rate of public bars.

**Table 2: Pennsylvania Tavern Association Violation Records of Lehigh County for the Years 1996-2002**

<b>Violation Results</b>	<b>Private Clubs</b>	<b>Public Bars</b>	<b>Clubs &amp; Bars</b>
subjects	n = 87	n = 257	n = 344
business receiving gambling citations	29/33	15/16	44/49
total fines	\$ 20,270	\$ 9,540	\$ 29,810
mean fines	\$ 614	\$ 596	\$ 609
standard deviation	\$ 289.59	\$ 336.94	\$ 301.24
cited businesses continuing machine use	29	14	43
recidivism rates	100 %	94 %	98 %

*Cost of sanctions*

The interview data regarding the receipt of Pennsylvania citations and state legislated sanctions for the illegal use of video poker machines was analyzed. The results revealed that from January 1996 through December 2002, of the 30 private social clubs interviewed, 12 of these clubs received a state issued citation for illegal video poker machine use, 2 clubs received two citations in that time frame, and 1 club received three citations, totaling 16 citations among private clubs. In this same time period, 6 public bars received a state issued citation and 1 public bar received two citations for illegal video poker machine use, totaling 8 citations among public bars (Table 3).

For the 16 illegal gambling citations received by the private social clubs, fines totaled \$8,650 with a mean of \$541 per citation. The clubs had a total of 69 video poker machines confiscated at an overall cost of \$83,000, with an average of 4.3 machines confiscated at a cost of \$5,188 per citation. In addition to the fines and machine seizures, the State also confiscates payout money set aside to pay poker machine winners. The financial losses sustained through the seizure of payout money totaled \$15,900 with the mean loss being \$994. The private social club total losses incurred following the receipt of a State issued citation include the fine and the machine and payout money seizures. The 1996-2002 losses of those private social clubs interviewed totaled \$107,550 or an average sanction of \$6,722 per illegal gambling citation (Table 3).

For the 8 illegal gambling citations received by the public bars, fines totaled \$3,700, with a mean fine of \$463 per citation. The bars had a total of 14 video poker machines confiscated at an overall cost of \$19,500, with an average of 1.8 machines confiscated at a cost of \$2,438 per citation. The financial losses sustained through the seizure of payout money totaled \$3,400 with the mean loss being \$425. The 1996-2002 losses of those public bars interviewed totaled \$26,600 or an average sanction of \$3,325 per illegal gambling citation (Table 3).

**TABLE 3: Interview Results Comparing Gambling Citations and Sanctions in Lehigh County from 1996-2002**

<b>Interview Results</b>	<b>Private Clubs</b>	<b>Public Bars</b>
subjects	n = 30	n = 30
gambling citations received	12/16	8
percentage of businesses receiving citations	40%	26.7%
total citation fines for all businesses	\$8,650	\$3,700
range of citation fines per business	\$350-850	\$100-1000
mean citation fine per business	\$541	\$463
total poker machines confiscated for all businesses	69	14
range of machines confiscated	3-10	1-2
mean machines confiscated per business	4.3	1.8
total financial losses from machine confiscation	\$83,000	\$19,500
range of confiscation losses per business	\$3,000-12,000	\$1,000-3,500
mean confiscation losses per business	\$5,188	\$2,438
total payout money confiscated for all businesses	\$15,900	\$3,400
range of payout money confiscated	\$500-2,300	\$200-800
mean payout money confiscated	\$994	\$425
total combined businesses losses from poker machine citations	\$107,550	\$26,600
range of overall losses per business	\$4,000-13,500	\$1,700-4,800
mean overall losses per business	\$6,722	\$3,325

*Cost/benefit analysis comparing rewards versus costs of violating the poker machine gambling laws*

A cost-benefit analysis was performed to determine the effectiveness of Pennsylvania sanctions utilizing the data gathered through the interviews with 30 randomly selected private social clubs and 30 public bars. This analysis simply compared the business' profits versus the risk of being caught and the sanction costs if caught. The 60 businesses interviewed for this study annually earn \$3,124,800 in gambling income through video poker machines. The private clubs earn \$2,373,600 and the public bars earn \$751,200. The overall mean income of all businesses surveyed is \$52,080 annually, with the mean for private clubs being \$79,120 and public bars averaging \$25,040 (Table 4).

When liquor licensed businesses receive a citation for illegal gambling using video poker machines, the business incurs a fine and the poker machines and payout money set aside to pay-off winners are automatically seized. The owners and trustees of the 60 businesses interviewed annually receive 4.8 illegal gambling citations, 3.2 for clubs and 1.6 for bars. The total annual cost of sanctions from illegal gambling citations including fines and seizures is \$26,830, with \$21,510 for clubs and \$5,320 for bars. The overall mean sanction per citation is \$5,590, with clubs losing \$6,722 and bars \$3,325 (Table 4).

By dividing these sanction totals by the number of businesses interviewed, a sanction cost per business unit is obtained. The mean annual business unit sanction cost for the illegal use of video poker machines is \$447. The unit cost for clubs is \$717 and for bars, \$177. When the sanction cost per business unit is subtracted from the income earned from the poker machines per business unit, the total benefits are revealed. For all 60 businesses interviewed, the mean annual benefits of poker machine use were \$51,633, with club benefits totaling \$78,030 and bar benefits totaling \$24,863 annually. Further, dividing the mean annual citations by the number of businesses shows that the overall chances of receiving a gambling citation during a one year period of time is 8% for all the interviewed businesses, 10.6% for the private clubs and 5.3% for the bars (Table 4).

**TABLE 4: Annual Cost Benefit Analysis of Illegal Video Poker Machine Use by those Businesses Interviewed in Lehigh County**

Interview Results	Clubs	Bars	Combined
subjects	n = 30	n = 30	n = 60
total annual income	\$ 2,373,600	\$ 751,200	\$ 3,124,800
mean income per business unit	\$ 79,120	\$ 25,040	\$ 52,080
mean annual citations received	3.2	1.6	4.8
mean annual total of fines received	\$ 1,730	\$ 740	\$ 2470
mean fines per citation	\$ 541	\$ 463	\$ 515
mean annual total of poker machines seized	13.8	2.8	16.6
annual losses from poker machines seized	\$ 16,600	\$ 3,900	\$ 20,500
mean losses from machines seized	\$ 5,188	\$ 2,438	\$ 4,271
annual total payout money seized	\$ 3,180	\$ 680	\$ 3,860
mean payout money seized	\$ 994	\$ 425	\$ 804
annual total losses per citation	\$ 21,510	\$ 5,320	\$ 26,830
mean total losses per citation	\$ 6,722	\$ 3,325	\$ 5,590
mean total annual losses per business unit	\$ 717	\$ 177	\$ 447
mean income minus losses per business unit	\$ 78,030	\$ 24,863	\$ 51,633
annual chances of a business being caught	10.6 %	5.3 %	8 %

*Examination of the recidivism rates*

In examining the effectiveness of current Pennsylvania sanctions against the illegal use of video poker machines through recidivism rates, an analysis revealed that Lehigh County businesses received 49 gambling citations from 1996 to 2002. Of those 49 citations, 33 were delivered to private clubs, while 16 were given to public bars (Table 2). In January of 2003, the author entered each of these establishments to observe if video poker machines were in use. All 29 private clubs continued their use of video poker machines, with a recidivism rate of 100 %. For the public bars, 14 of the 15 still had poker machines in use, a recidivism rate of 92%. Of the 44 total establishments

receiving citations for the illegal use of video poker machines, 43 continue its use, a recidivism rate of 98 % (see table 2). As hypothesized, it has been shown that the enforcement and sanctioning methods utilized by the state to monitor the use of video poker machines in Lehigh County, fail to deter their use.

## Discussion

### *Applying the rational choice deterrence model to the illegal use of video poker machines in Lehigh County, Pennsylvania*

When applying rational choice to this research, the “likely offenders” are the decision-makers (public bar owners and private social club trustees) for the liquor licensed establishments in Lehigh County, Pennsylvania. These decision-makers are not usually held personally accountable for violating the state’s gambling laws; their businesses are. However, since they are the ones who determine whether the business entities will or will not violate the law, they become the likely offenders.

Rational choice theory posits that a likely offender commits a specific type of crime in order to satisfy his or her needs (Cornish and Clarke, 1986). In this study, the specific type of crime is the illegal use of video poker machines in the establishments run by these individuals. The needs being fulfilled are financial. For the public bar owners, the financial needs fulfilled are direct, bringing a substantial increase in personal income. For the private social club trustees, the financial needs fulfilled are indirect. First, the use of video poker machines allows for a substantial increase in their clubs’ operating budget, which in turn provides an increase in benefits for the club membership: lower alcohol prices, holiday parties, summer picnics, new construction, reconstruction, etc. Second, by increasing the clubs’ income, the trustees gain additional respect among the club membership which aids in being re-elected to their position of authority in the club. Finally, for some trustees it may allow for the chance of direct financial benefit through the skimming-off or embezzling of part of the profits earned through the video poker machines. Since these trustees are also in charge of the clubs’ budget, accounting, and daily operations, it would seem to be fairly easy to divert a percentage of the clubs’ income. After all, the money obtained through the video poker machines is illegally gained and must be hidden from the Pennsylvania State auditors, who audit non-profit private clubs.

An example of this occurred on February 19, 2004, at the “Order of Fleas,” in Northampton County (on the border of Lehigh County), Pennsylvania, when Federal Agents seized \$194,000 in cash and charged numerous social club trustees and the club’s vendors with money laundering in a \$8.4 million illegal gambling operation. The



agents confiscated fifteen video poker machines, which they claim generated nearly \$9 million in profits from 1994 through 2003. Various employees, directors and trustees of the “Order of Fleas” received hundreds of thousands of dollars in profit skimming and vendor kickbacks and have pled guilty to money laundering charges (Devlin, Coombe, and Ford, 2004). Although this is not typical of the income generated by the vast majority of bars and clubs that utilize video poker machines, it does demonstrate the possibilities for criminal activity in these organizations.

According to the rational choice model, the offender calculates the risks, efforts, and rewards of committing that specific crime – in this case, the illegal use of video poker machines. From the perspective of the owners and trustees who were interviewed for this study, the monetary benefits of breaking the liquor code gambling laws through the use of video poker machines (\$51,633) greatly outweighed the sanction costs of violating the law (\$447) and the very low chance of being caught (8%). Thus in accordance with the rational choice deterrence model, these businesses will likely choose to violate the law (Table 4). This study clearly supports the rational choice model as all businesses interviewed for this research have chosen to violate the law.

Consequently, in accordance with rational choice theory, when all the elements are considered, it is likely that the liquor licensed businesses in Lehigh County, Pennsylvania will commit the crime of illegally deriving gambling profits through the use of video poker machines. In fact, according to Elster (1986), these business decision-makers would be acting irrationally if they did not commit this crime. He believes that individuals who insist that they would refrain from committing a crime regardless of the possible gain and remoteness of risk are irrational. Elster (1986) holds that in theory, the individual should weigh the expected gains and the probability of being caught. If the gains greatly outweigh the possibility of being caught, the individual might be expected on rational grounds, to commit the transgression.

### *Policy Implications*

Even though the majority of Americans favor the legalization of gambling, in the State of Pennsylvania the government has drawn the line against the billion dollar illegal market of video poker machine use in liquor licensed establishments (although the state government has recently passed legislation allowing the use of slot machines at state sanctioned businesses). The state has created a specific agency (LCE) whose sole purpose is to enforce liquor code violations, of which video poker machine gambling is one. Further, the state has legislated a specific set of sanctions for those businesses violating the gambling laws. Unfortunately, as this research has shown, current enforcement methods and sanctions fail to have any deterrent effect whatsoever on this criminal activity. What, if anything, can the State do to deter this crime?

Interviews with the bar owners and private club trustees revealed that most of these establishments would discontinue the utilization of video poker machines only if the penalties were much higher than currently in place. The figure stated by the majority of owners and trustees was a minimum fine of \$10,000 or more and 8 owners or trustees stated that they would not discontinue using the video poker machines no matter what the fines were, because without the income from the machines, they would have to close their business down. From a Rational Choice perspective, deterrence can be achieved by increasing the costs to the point where the rewards no longer greatly outweigh the efforts and sanctions. To accomplish this, the State could simply pass a law making video poker machines illegal, with a legislated fine of \$10,000 for possession of a machine. Thus, anytime an LCE agent enters a liquor licensed establishment that has video poker machines, they would be immediately confiscated and a citation given to the business, regardless of whether the machines were in use or a complaint was received by the LCB. The perceived risk of being caught with the machines would be greatly enhanced and the increased penalties would offset the rewards gained for all but a few establishments. Unfortunately, through interviews with these liquor licensed establishments, it was determined that a large number of these businesses depend on the income from the video poker machines for their very survival, and that without this income, many of the businesses would be forced to permanently close down - costing the State losses in tax revenue and increases in unemployment.

An alternative to increasing the risks is to simply legalize and limit the use of these machines. The state could legalize video poker machines, limit the machines to liquor licensed establishments, and place a limit on the number of machines per liquor license. The state could charge a licensing fee for each machine in use, collect taxes on the income generated by the machines, and regulate the payout figures for the machines to make them fair for the players. If this alternative was established in Pennsylvania: the state would generate hundreds of millions of dollars in new taxes, the liquor licensed businesses would be able to remain open, any embezzlement taking place at these establishments would be more easily discovered, and those individuals inclined to gamble would have a legal and regulated outlet for their entertainment.

These options do not provide foolproof methods of achieving total compliance. However, current deterrence methods have been unsuccessful. If Pennsylvania is sincere in its desire to end this criminal activity, other deterrence methods must be explored.

## Study Limitations and Future Research

This exploratory study delving into the illegal market of video poker machine gambling by liquor licensed small businesses in Pennsylvania, is limited by a number of factors. First, regarding the data gathered for these businesses across Pennsylvania, it was assumed for the purpose of this study, that the Pennsylvania Tavern Association's records of the liquor code violations and subsequent sanctions given for the years 1996-2002 are accurate. This may not be the case.

Second, this study gathered information about video poker machine use by small liquor licensed businesses through interviews with 30 private social club trustees and 30 public bar owners. The sample size used is in itself a limitation. With a sample size this small, data in the extremes will have a substantial effect on the overall statistical data presented - a much greater effect than a larger sample size would incur.

Third, the representation of the businesses interviewed in the random sample is questionable. It was ascertained following the interview process, that the random sample itself, was a statistical rarity, an outlier. While performing a reliability cross-check on the interview data to determine the honesty of the interviewee's replies, it was discovered that 7 (47%) of the 15 public bars that received citations from 1996-2002, were contained in the 30 randomly sampled bars from the overall total of 257 public bars in Lehigh County. However, this researcher does not believe that this statistical anomaly has adversely affected the results of this study, as there are no discernable data differences between the public bars that received gambling citations and those that did not receive a gambling citation from 1996-2002.

Fourth, the data gathered through the interview process also serves as a study limitation because these individuals were being questioned regarding their taking part in criminal activity. The information given may be inaccurate for a number of reasons such as, lack of trust in the interviewer, disbelief of confidentiality, covering-up for further criminal activities (private social club embezzlement or tax evasion), or simply a faulty memory. Further, when dealing with income generation of the video poker machines, for the purpose of this study, the figures given in the interviews are considered to be accurate, however these figures were not verified by the actual financial records of these establishments.

Last, the majority of data obtained for this research was obtained on a regional basis, through interviews of liquor licensed small businesses in Lehigh County, Pennsylvania, and as such, the results of this research cannot be generalized to similar types of businesses beyond Lehigh County.

More extensive research is necessary to determine exactly how far reaching video poker machine gambling is spread throughout Pennsylvania. Long term research utilizing the rational choice perspective, analyzing the costs versus the benefits of poker machine use is necessary to develop further sanctioning strategies to determine which will be the most effective. Additionally, though not addressed in this study, research on the long term effects of compulsive poker machine gambling for both the individual and the community needs to be performed. Hopefully, this regional study will provide a starting point for future researcher in these areas and will enhance the current limited research on video poker machine gambling.

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