

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 367

(Chair, Anne Arundel County Senators)

Education, Health, and Environmental Affairs

Economic Matters

Alcoholic Beverages - Anne Arundel County - Entertainment Facility

This bill authorizes the Anne Arundel County Board of License Commissioners to issue an entertainment facility (EF) on-sale license and an entertainment concessionaire (EC) on-sale license. The EF license permits the sale of beer, wine, and liquor within the Video Lottery Terminal (VLT) facility licensed to operate in Anne Arundel County. The EC license permits the sale of beer, wine, and liquor at a concession adjacent to this VLT facility. The EF annual license fee is \$15,000; the EC annual license fee is \$5,000.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: None.

Local Effect: Anne Arundel County license revenues increase by \$15,600 in FY 2012 and by \$35,000 annually beginning in FY 2013.

Small Business Effect: Minimal.

Analysis

Bill Summary: The EF license may be issued to the individual or entity owning the VLT facility licensed to operate in Anne Arundel County. An applicant for the EF license need not meet any location, voting, or residency requirements. The holder of the EF license may sell beer, wine, and liquor on any premises of the VLT facility that is not covered by an EC license, for consumption anywhere in the facility. The holder of an EC

license may sell beer, wine, and liquor on the premises of the concessionaire for consumption anywhere in the facility.

The EF and the EC license authorize the playing of music and dancing in their respective premises. Current law related to a special Sunday license in Anne Arundel County does not apply to the issuance of an EF or an EC license. An EF or an EC license may not be counted as a Class B or Class H license for the purposes of § 9–102(h–1) of Article 2B, which allows for issuance of an additional Class H license under certain conditions.

Current Law: During the 2007 special session, the General Assembly adopted two pieces of legislation pertaining to VLT gambling – Chapter 4 (Senate Bill 3) and Chapter 5 (House Bill 4). Chapter 5 was a constitutional amendment approved by the voters at the November 2008 general election that authorized the expansion of gambling subject to specified restrictions. The constitutional amendment provided that (1) a maximum of five VLT facility licenses may be awarded within specified areas of the State; (2) no more than one facility license may be awarded in any county or Baltimore City; (3) a maximum of 15,000 VLTs may be authorized; and (4) VLT facilities must comply with any applicable planning and zoning laws of a local jurisdiction. Chapter 4, which was contingent on ratification of Chapter 5, established the operational and regulatory framework for the VLT program. Chapter 624 of 2010 made several changes to the VLT program implemented by Chapter 4.

Chapter 4 allows for a maximum of 15,000 VLTs, distributed as follows: 4,750 VLTs in Anne Arundel County; 3,750 VLTs in Baltimore City; 2,500 VLTs in Worcester County; 2,500 VLTs in Cecil County; and 1,500 VLTs in Allegany County (Rocky Gap State Park).

Under Chapter 4, a video lottery operation licensee may not provide food or alcoholic beverages to an individual at no cost, with the exception of hors d'oeuvres, pretzels, cheese or crackers as allowed under § 12-106 of Article 2B. Food or alcoholic beverages offered by a video lottery operation licensee may be offered only at prices that are determined by the county alcoholic beverages licensing authority to be commensurate with the price of similar types of food and alcoholic beverages at restaurants in the county in which the video lottery facility is located.

A video lottery operation licensee must ensure that intoxicated individuals are not allowed to play video lottery terminals and are not allowed in areas of the video lottery facility where video lottery terminals are located. The Code of Maryland Regulations requires security operating procedures that ensure that intoxicated individuals are prohibited from entering the video lottery facility, or if necessary, immediately removed from the facility.

With some exceptions, a special Sunday license is required to sell alcohol after 2 a.m. on a Sunday in Anne Arundel County. For holders of some types of alcoholic beverage licenses in Anne Arundel County, the playing of music, dancing, and other similar types of entertainment are prohibited on or adjacent to the premises under ownership or control of the licensee.

A Class H beer, wine, and liquor (BWL) license generally allows a hotel or restaurant to sell alcoholic beverages for consumption on the premises.

Background: The Video Lottery Facility Location Commission has awarded video lottery operation licenses for VLT facility locations in Anne Arundel, Cecil, and Worcester counties. Power Plant Entertainment (PPE) Casino Resorts, LLC was awarded a license in December 2009 to operate a 4,750 VLT facility adjacent to Arundel Mills Mall in Anne Arundel County, contingent upon local zoning approval. County officials subsequently approved zoning legislation, but the legislation was petitioned to a local voter referendum at the November 2010 election. Anne Arundel County voters approved the legislation, allowing the VLT facility to go forward. PPE plans to open a 2,000 VLT temporary facility by the end of 2011 with a permanent facility scheduled to open by the end of 2012. However, appeals of the site development and grading permit approvals for PPE have been filed with the Anne Arundel County Board of Appeals, temporarily halting activity at the site.

In Cecil County, in which a VLT facility currently operates, there is a Class EF license which authorizes the holder to sell beer, wine, and liquor by the drink and by the bottle, from one or more outlets in the entertainment facility, for consumption anywhere within the entertainment facility, during the days and hours the facility is open for business. The holder of a Class EF license may not sell alcoholic beverages for off-sale consumption. The annual license fee is \$7,500.

The Worcester County VLT facility is located at the Ocean Downs Racetrack. The racetrack license in Worcester County allows for the sale of beer, wine, and liquor within the confines of the racing park, for a fee of \$1,500 each year, which entitles the holder to sell at one or more locations within its park.

Local Fiscal Effect: During the planned one-year duration of the temporary VLT facility in Anne Arundel County, it is anticipated that only limited food and beverages will be offered by the facility operator. License revenue for the EF license would amount to \$15,000 in the first year, or fiscal 2012, in addition to a one-time application fee of \$600. Under current law, there is no license that specifically allows for selling alcoholic beverages within a VLT facility. Therefore, revenues increase by \$15,600 in fiscal 2012.

At full implementation approximately five restaurants within the facility would meet the description of a concessionaire. Under current law, each restaurant would likely seek a Class H BWL license and a special Sunday license, with license fees totaling \$900. A license to play piped-in (as opposed to live) music would increase license revenues by \$100 for each location. A license for allowing live entertainment and dancing would instead be \$400 for each location. Given the one-time application fee of \$600 each, this would result in between \$8,000 to \$9,500 in revenues under current law for the five restaurants in fiscal 2013.

Given the \$15,000 EF annual license fee, the \$5,000 EC annual license fee, and the one-time \$600 application fee for each restaurant, license revenues may total \$43,000 in fiscal 2013. The net increase in revenues under the bill in fiscal 2013 and in subsequent years is estimated to be between \$33,500 and \$35,000.

Additional Information

Prior Introductions: None.

Cross File: HB 506 (Anne Arundel County Delegation) - Economic Matters.

Information Source(s): Anne Arundel, Cecil, and Worcester counties; Comptroller's Office; Maryland State Lottery Agency; Department of Legislative Services

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