

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 272

(Senator Currie, *et al.*)

Budget and Taxation

Ways and Means

State Lottery Agency - Tickets - Electronic Devices Connected to the Internet

This bill prohibits the State Lottery and Gaming Control Agency (SLGCA) from allowing a person to purchase a State lottery ticket through an electronic device that connects to the Internet, such as a personal computer or mobile device.

Fiscal Summary

State Effect: Special fund expenditures decrease by \$366,000 in FY 2014. Revenues are not directly affected in FY 2014.

Local Effect: None.

Small Business Effect: Currently, the bill has no effect on small businesses, but it could have a potential meaningful effect for small businesses in the future.

Analysis

Current Law: There are no regulatory or statutory provisions that prohibit the lottery from selling lottery games over the Internet. State criminal law prohibits all lotteries except the State Lottery or multi-jurisdictional lotteries authorized under the State Government Article. SLGCA must issue licenses to persons and governmental units that will best serve the public convenience and promote the sale of State lottery tickets or shares.

Background:

Lottery Ticket Sales and the State Lottery Fund

Each month, after payments to lottery winners and agents and to the State Lottery for operating expenses, the Comptroller must make payments from the State Lottery Fund to:

- the Maryland Stadium Facilities Fund, from revenues generated by sports lotteries conducted on behalf of the Maryland Stadium Authority; and
- the State's general fund.

In fiscal 2012, the State Lottery generated \$1.8 billion in total from ticket sales. Payments to lottery winners were \$1.1 billion, while operating costs and payments to agents totaled \$172.2 million. Approximately \$536.1 million was deposited in the general fund after payments were made to the Maryland Stadium Facilities Fund (\$20.0 million).

In general, four types of games are offered by the Maryland State Lottery Agency: daily, jackpot, monitor, and scratch-off games. Daily games consist of Pick 3 or Pick 4, Bonus Match 5, and 5 Card Cash; jackpot games include Multi-Match, Mega Millions, and Powerball; and monitor games include Keno and Racetrax. Daily, jackpot, and monitor games allow players to pick their numbers or use automatic computer-generated plays. Customers receive a ticket and then wait for the drawing to determine if they have won. Scratch-off games are played by scratching a latex covering off a play area to reveal preprinted combinations. If a winning combination is revealed, the customer is an instant winner. Scratch-off games generally have price points between \$1 and \$20.

Wire Act of 1961

In 2009, officials from the New York State Lottery and the Illinois Governor's Office sought clarification from the U.S. Department of Justice (DOJ) whether their in-state Internet lottery programs would violate the Interstate Wire Act of 1961 (Wire Act) and the Unlawful Internet Gambling Enforcement Act.

In a September 2011 memorandum opinion, DOJ determined that the Wire Act's prohibitions, which had been previously cited to declare online gaming illegal in the United States, only apply to sports-related gambling activities in interstate and foreign commerce. Specifically, DOJ ascertained that interstate transmissions of wire communications that do not relate to a sporting event fall outside the reach of the Wire Act.

iLottery

Selling lottery tickets over the Internet is commonly referred to as iLottery throughout the industry. The iLottery program is a platform in which the player, via the Internet, uses a debit card or bank account to establish an account and determine which games he or she wants to enroll in through a subscription plan or a same-day-purchase. The player can select to participate in one game or multiple games using this platform and will never miss a drawing that he or she chooses to enter.

SLGCA submitted a report in September 2012 that outlined its objective to provide iLottery to allow for the purchase of traditional lottery games through personal computers and mobile devices. Under the proposal, customers would sign up for an account, fund their “digital wallet,” and browse and purchase same-day games and subscriptions. The iLottery would also allow account holders to track their transactions and play history, as well as claim winnings online. SLGCA envisions offering draw games (such as Pick 3 and Mega Millions), monitor games (such as Keno and Racetrax), and electronic instant tickets, some of which would mimic traditional scratch-off tickets. The agency indicates that it would employ secure software to verify the age of online lottery players (18 and over) as well as their presence within Maryland and would also adopt practices aimed at assuring that individuals using iLottery features comply with relevant rules and regulations.

The fiscal 2013 State budget assumed \$2.2 million in general fund revenue from Internet sales, but since iLottery has not been set up in the State, it did not receive any of that revenue. The fiscal 2013 allowance included \$167,119 in special funds for three additional positions under regular lottery operations to design the parameters of a new program to sell regular lottery games over the Internet. However, after reviewing the September 2012 report, the budget committees declined to authorize the release of funds that would allow the agency to proceed with the development of online sales. Those funds will remain unspent and will be canceled at the end of fiscal 2013. Since the funds were never released, the bill has no fiscal effect on expenditures in fiscal 2013.

iLottery in Other States

Illinois became the first state to offer same-day sales of lottery tickets online in March 2012. Illinois generated \$2.2 million from online lottery sales by July 2012. Illinois online lottery sales have fallen short of projections due to privacy concerns of customers and a website that is not user-friendly.

New Hampshire, New York, North Dakota, and Virginia allow their residents to purchase a subscription plan to draw games over the Internet (in Maryland, residents must mail in subscription orders). Illinois, Georgia, and Minnesota have already launched online lottery sales programs for their residents. Pennsylvania, Delaware, and North Carolina

are scheduled to launch online lottery sales sometime in 2013, and other states such as Mississippi and Massachusetts are developing plans to move forward with iLottery.

State Revenues: The Governor's proposed fiscal 2014 budget does not assume any revenue from Internet sales. The bill does not affect current State revenues since it has never received revenue from Internet sales, but by disallowing iLottery, the State loses the future potential to receive \$2.2 million in general fund revenue annually from Internet sales.

State Expenditures: The Governor's proposed fiscal 2014 budget includes special fund expenditures of \$366,000 for the purpose of procuring consulting services to design an iLottery website. According to lottery officials at a recent public legislative briefing, SLGCA no longer plans to sell lottery tickets online at this time. SLGCA and the Department of Budget and Management have stated that the funds were budgeted in error. The Department of Legislative Services has recommended that the funds be deleted. If the funds are deleted, then there is no fiscal impact for fiscal 2014.

Small Business Effect: Preventing SLGCA from selling lottery tickets online currently does not affect small businesses. However, preventing SLGCA in the future from selling lottery tickets online has a potential meaningful effect on small businesses.

An agent licensed by SLGCA receives a commission of 5.5% of gross receipts from the agent's lottery ticket sales, as enacted by Chapter 1 of the 2012 second special session (SB 1), increasing to 6% in July 2014. A licensed agent may also receive a cashing fee not to exceed 3% of valid prizes paid for services rendered in cashing winning tickets. Maryland retailers earned \$118.3 million from lottery commissions in fiscal 2012. To the extent that online lottery sales cause a reduction in lottery ticket sales in brick-and-mortar retail sales, small businesses that sell lottery tickets would earn a lower commission and could also see a reduction in general commercial traffic. Thus by preventing online lottery sales, small businesses benefit by preserving their lottery commissions and general commercial traffic in their stores.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Lottery and Gaming Control Agency, Department of Legislative Services

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