

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 344 (Delegate Impallaria)
Ways and Means

Harford County - Charitable Gaming

This bill authorizes specified nonprofit organizations that have been located in Harford County for at least three years to hold gaming contests in the county. A gaming contest involves a card game, dice game, or roulette. The bill prohibits permit holders from conducting more than four gaming contests per year and requires a separate permit for each casino event. A person who violates the provisions of the bill is guilty of a misdemeanor and, on conviction, subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provision.

Local Effect: Harford County revenues increase minimally from collection of gaming contest licensing fees beginning in FY 2014. Potential minimal increase in expenditures due to the bill's penalty provision.

Small Business Effect: None.

Analysis

Bill Summary: Eligible organizations must submit an application to the sheriff stating the purpose for which the proceeds of the gaming contest will be used and pay the permit fee that the sheriff determines. A gaming contest may be held only between 4:00 p.m. and 1:00 a.m. and only in a structure or at a location that is owned, leased, or occupied by the permit holder. A gaming contest may include bingo, instant bingo, a raffle, a paddle

wheel, or a 50/50 raffle, but a gaming contest may not consist exclusively of a game on this list.

An individual may bet no more than \$10 on any game conducted during the contest. A permit holder may award prizes of money or merchandise; no prize value limit is established by the bill.

A gaming contest must be managed and operated personally by members of the organization conducting the contest without outside assistance. A member of the organization may not receive proceeds from the gaming contest for personal use and may not receive compensation for managing the contest or operating a game during the contest. Proceeds may not be paid to or received by a person other than the permit holder. A qualified organization may rent or purchase equipment and supplies needed to conduct a gaming contest, but may not enter into an agreement to share gaming contest profits. After deducting costs incurred from conducting the contest, proceeds must be used only for the purposes of the organization.

Within 30 days after a gaming contest, the permit holder must submit a specified financial report to the sheriff. The permit holder must keep all financial records from the contest for at least two years after the contest. The sheriff or the State's Attorney may require the permit holder to produce the financial records. The sheriff may deny a permit to an applicant failing to file a required report from a previous contest or is late in filing federal or State tax reports.

The sheriff must adopt regulations regarding gaming contests. A person who violates this law is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year and/or a fine not exceeding \$1,000.

Current Law: In Harford County, four classes of organizations can obtain a license to conduct certain types of gaming events that do not include card games, dice games, or roulette: (1) particular religious groups; (2) State and nationally chartered veterans' organizations; (3) volunteer fire companies; and (4) specified nonprofit, charitable organizations. Subject to specified limitations, a political committee may conduct a fundraiser entailing a gaming event or 50/50 game.

The Harford County Sheriff must charge the following license fees: \$5 for a bingo license, \$15 for a members-only instant bingo license, and \$10 for other specified licenses. The licensee must submit a specified report within 15 days after the licensed gaming activity.

Prize money for a bingo game may not exceed \$500 or \$1,000 for a jackpot. Prize money for a members-only instant bingo game may not exceed \$500. Prize money for a

raffle may not exceed \$10,000 if the sponsoring organization has not held a raffle for prize money exceeding \$1,000 in the current calendar year; otherwise the limit is \$1,000. Prize money for a paddle wheel game may not exceed \$10 and prize money for a game of 50/50 may not exceed \$500.

Background: **Appendix – Local Gaming** provides detailed background on local gaming in Maryland.

State Fiscal Effect: General fund revenues may increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

Local Fiscal Effect: Harford County revenues increase minimally from gaming contest license fees. County revenues may also increase as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Expenditures may increase in Harford County as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs for the county detention facility have averaged \$115 per inmate in recent years.

Additional Information

Prior Introductions: SB 166 of 2012 passed the Senate, was referred to the House Rules and Executive Nominations Committee, and had no further action taken on it. Its cross file, HB 1287 of 2012, had a hearing in the House Ways and Means Committee but no further action was taken. SB 128 of 2011 received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

Cross File: SB 130 (Senator Glassman, *et al.*) - Budget and Taxation.

Information Source(s): Harford County, Comptroller's Office, Maryland State Lottery and Gaming Control Agency, Department of Legislative Services

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Appendix – Local Gaming

Eastern Shore Slot Machines

Generally, it is a misdemeanor crime to possess or operate a slot machine in Maryland. However, legislation was enacted in 1987, 2007, and 2011 authorizing certain nonprofit organizations to operate slot machines in the nine Eastern Shore counties: Caroline, Cecil, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester (except a specified area within Ocean City).

Each county is responsible for regulating gaming activities conducted by civic and charitable organizations. The 1987 legislation required a nonprofit organization to be located in the county for at least five years prior to the application for a license and to be a fraternal, religious, or war veterans’ organization. Chapter 645 of 2007 expanded the list of eligible organizations that may be licensed to operate slot machines to include those that have been affiliated with a national fraternal organization for less than 5 years but have been located within an eligible county for at least 50 years before applying for a license. Pursuant to Chapter 315 of 2011, the Comptroller’s Office must regulate the specified slot machines and charge a license fee to cover the costs of regulating the machines.

A qualified organization may not own more than five slot machines and must own each slot machine in operation. The slot machines must be located at the principal meeting hall of the organization and cannot be operated at a private commercial facility. The slot machine must be equipped with a tamperproof meter or counter that accurately records gross receipts. At least one-half of the proceeds generated from slot machines must go to charity. The remainder of the proceeds must go to the organization. An individual cannot benefit financially from the proceeds. The organization must keep accurate records of gross receipts and payouts from slot machines and must report annually under affidavit to the Comptroller’s Office on the income of each machine and the disposition of these proceeds.

Exhibit 1 shows the slot machine “handle” (or amount bet) by county for 65 organizations in fiscal 2012. The total amount bet was \$56.6 million, 89% of which was returned to gamblers. The Comptroller’s Office assesses a \$50 license fee per slot machine to cover costs for regulating their operation.

Exhibit 1
Slot Machine Handle for Eastern Shore Counties
Fiscal 2012
(\$ in Millions)

<u>County</u>	<u>Slot Machines</u>	<u>Handle</u>
Caroline	15	\$2.1
Cecil	45	12.5
Dorchester	35	5.3
Kent	25	2.0
Queen Anne's	33	10.6
Somerset	35	1.7
Talbot	25	3.3
Wicomico	58	14.0
Worcester	33	5.1
Total	304	\$56.6

In reviewing past filings, the Department of Legislative Services (DLS) noted that several organizations were not in compliance with the 50% charity requirement or misclassified some contributions as charitable.

Paper Gaming

Paper gaming is a game of chance in which prizes are awarded, and the devices used to play the game are constructed of paper. The most common forms of paper gaming are punchboards, instant bingo, and tip jars. A punchboard is a square piece of wood or cardboard with dozens or hundreds of holes punched in it, each filled with a piece of paper with numbers or symbols printed on it. The holes are covered with foil or paper, and players pay for the right to punch one or more holes. If the numbers or symbols on their slips of paper match a winning combination, they receive a prize, either cash or another item. Tip jars dispense instant winning game tickets similar to scratch lottery games.

Paper gaming provides two sources of revenues to counties: the sale of paper gaming licenses and tickets to operators, and taxes on paper gaming sales. The State Lottery and Gaming Control Agency advises that paper gaming occurs in at least 15 Maryland counties and is most prevalent in Allegany, Frederick, Garrett, and Washington counties.

Electronic Gaming

An electronic bingo or electronic tip jar is a game played in an electronic or electro-mechanical device that contains predetermined winning and losing games and signals the issuance of a winning play. Examples include (but are not limited to):

- electronic devices utilizing paper bingo or tip jar tickets; and
- electronic devices utilizing computer chips that simulate paper bingo or tip jar tickets that, when played by a customer, determine the outcome of winning or losing that is not random or subject to change, but is based on a predetermined set of winning or losing numbers.

Facilities operating electronic bingo are located primarily in Anne Arundel and Calvert counties. An entity licensed to offer instant bingo under a commercial bingo license on July 1, 2007, or by a qualified nonprofit organization may continue to operate a game of instant bingo in the same manner using electronic machines, provided that:

- the machines were in operation for a one-year period ending December 31, 2007, or under a commercial bingo license on December 31, 2007;
- the entity does not operate more than the number of machines in operation on February 28, 2008; and
- the conduct of the gaming and operation of the machines are consistent with all other provisions of the Criminal Law Article.

Basic electronic pull tab dispensers are currently available at a cost ranging from about \$2,500 to \$5,000 each, and manual lock and key dispensers are available for as low as \$150. Price points on pull tab games typically range from 25 cents to \$2.00. Information from other states indicates a payout rate of approximately 66% on pull tabs, meaning that two-thirds of the amount bet is returned to gamblers (considerably lower than the average payout of about 88% for Eastern Shore slot machines).

Prohibited Gaming

In *Chesapeake Amusements Inc. v. Riddle*, the Maryland Court of Appeals took up the issue of “whether a dispensing machine with a video screen that displays the contents of the tickets that it dispenses and emits a musical tone that signals when a winning ticket is being dispensed is a ‘slot machine,’” as defined by Maryland law. The Court of Appeals found that the machine in question was not a slot machine. In response to this decision, Chapter 474 of 2008 altered the definition of “slot machine” to include a machine that reads a game of chance and a machine that delivers a game of chance.

Chapter 474 of 2008 also prohibited certain gaming machines licensed by local jurisdictions, primarily electronic bingo and tip jar machines, from operating after July 1, 2009. Chapter 661 of 2009 extended this termination date to July 1, 2012, and Chapter 603 of 2012 made permanent the authority for certain existing qualified organizations and licensed commercial bingo licensees to operate electronic instant bingo machines that would otherwise be illegal under State law after July 1, 2012. Under Chapter 603, the State Lottery and Gaming Control Commission must regulate certain electronic gaming devices and determine if they are operating lawfully. A gaming device that is not compliant by January 1, 2013, is an illegal gaming device that may not legally operate in the State.

The law also provides for exceptions for certain machines that are not considered slot machines:

- machines that award the user additional free games;
- machines that are arcade-type games that provide noncash prizes of minimal value; and
- paper pull tab tip jars and paper pull tab instant bingo tickets that must be opened manually as long as the machine does not electronically read the ticket, does not alert the user to winnings, or does not tabulate the winnings.

Personal electronic bingo machines are also excluded as long as the machine does not allow a person to play more than 54 cards at one time. State lottery machines that dispense lottery tickets and video lottery terminals are also excluded.

Veterans' Organizations

During the 2012 second special session, the General Assembly adopted Chapter 1 (Senate Bill 1), which was approved by voter referendum at the November 2012 general election. Chapter 1 authorizes the State Lottery and Gaming Control Agency to issue certain veterans' organizations a license for up to five instant ticket lottery (pull tab) machines. Veterans' organizations in counties on the Eastern Shore and in Montgomery County are not eligible. After deductions for commissions (to the veterans' organizations) and prize payouts, the proceeds go to the State general fund. Beginning July 1, 2014, 10% of the proceeds will be distributed to the Maryland Veterans Trust Fund.