

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Maryland State Lottery and Gaming Control Agency
(DLS Control No. 14-100)**

Overview and Legal and Fiscal Impact

This regulation provides the standard of review and manner by which the State Lottery and Gaming Control Commission considers the background investigation of an applicant for a video lottery employee license which reveals an act committed by the applicant that would constitute an offense of moral turpitude or gambling under § 9-1A-14(c)(7) of the State Government Article.

The regulation presents no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Maryland State Lottery and Gaming Control Agency:

Gaming Provisions: Investigation and Licensing: COMAR 36.03.02.12

Legal Analysis

Background

An individual must hold a valid license issued by the commission in order to be employed as a video lottery employee. State law specifies eight conditions that automatically disqualify an applicant from receiving a license. Prior to 2013, one of the grounds for disqualification of an applicant for a video lottery employee license was a conviction for a crime of moral turpitude or gambling. The commission of a criminal act of moral turpitude or gambling, even if it was not prosecuted, was also a disqualifying condition.

Chapters 40 and 41 of the Acts of 2013 repealed the lifetime ban on employees who were convicted of a crime of moral turpitude or gambling. Currently, an applicant is only required to be disqualified for a license if the applicant has had a conviction, or is on active parole or probation, for any crime involving moral turpitude or gambling within the prior seven years.

While there is no specific State law that defines moral turpitude, a 1996 Attorney General's Opinion described a crime of moral turpitude as a crime "for which fraudulent intent is a requisite element of proof." Black's Law Dictionary defines "moral turpitude" as "conduct that is contrary to justice, honesty, or morality" and includes fraud and breach of trust as examples.

Summary of Regulation

Section .12D provides the manner by which the commission is required to consider the background investigation of an applicant that reveals an act committed by the applicant that would constitute an offense of moral turpitude or gambling under § 9-1A-14(c)(7) of the State Government Article.

Subsection .12D(1) provides that an act that was committed in any jurisdiction by an applicant must disqualify the applicant if the act occurred within seven years before the date of the application and would constitute a criminal offense involving moral turpitude or a gambling offense under the criminal laws of any jurisdiction, and the act (1) was not prosecuted under the criminal laws of any jurisdiction or (2) cannot be prosecuted under the criminal laws of any jurisdiction.

Subsection .12D(2) authorizes the commission, in determining whether the applicant has met the required qualification criteria, to consider an act described in subsection .12D(1) that was prosecuted but did not result in a conviction.

Subsection .12D(3) requires the commission to determine the existence of an act described in subsection .12D by a preponderance of the evidence.

Legal Issue

The regulation presents no legal issue of concern.

Statutory Authority and Legislative Intent

The Maryland State Lottery and Gaming Control Agency cites § 9-1A-14 of the State Government Article as authority for the regulation. Specifically, § 9-1A-14(c) specifies eight conditions that automatically disqualify an applicant from receiving a license, and identifies one of the disqualifying conditions as “the applicant’s conviction, active parole, or probation for any crime involving moral turpitude or gambling under the laws of the United States or any state within the prior 7 years.” Paragraph 9-1A-14(c)(7) includes as a disqualifying condition the commission of an act by the applicant that would constitute an offense described § 9-1A-14(c)(3), even if the act has not been or may not be prosecuted under the criminal laws of the State. In addition, although not cited by the agency, §9-1A-02(b) requires the commission to regulate the operation of video lottery terminals in accordance with this subtitle.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulation implements Chapters 40 and 41 of 2013 (SB 282/HB 1053) that alters the qualifications for video lottery employee licenses. The fiscal and policy note for that legislation stated that the application fee covers any additional costs incurred by the agency. The agency advises that the regulation has no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The agency advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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