

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Maryland State Lottery and Gaming Control Agency
(DLS Control No. 15-249)**

Overview and Legal and Fiscal Impact

These regulations (1) increase the surveillance recording retention requirement for table games; (2) allow the gaming floor average payout percentage to be between 87% and 95%; and (3) lower disclosure requirements for progressive jackpot transfers.

The regulations present no legal issues of concern.

There is likely no material fiscal impact on State or local agencies.

Regulations of COMAR Affected

Maryland State Lottery and Gaming Control Agency:

Gaming Provisions: Facility Standards: COMAR 36.03.11.04

Video Lottery Terminals: Video Lottery Technical Standards: COMAR 36.04.01.11

Video Lottery Technical Standards: COMAR 36.04.01.30

Legal Analysis

Summary of Regulations

Table Games Surveillance Requirements

Regulation .04C(1) requires that certain surveillance recordings be retained for a minimum of seven days. These regulations amend Regulation .04C(1) to increase this requirement to 14 days.

Average Payout Percentage

Regulation .11E requires that a facility's gaming floor must be configured to collectively achieve, at all times, an average payout percentage which exceeds 90% but does not exceed 95%. These regulations amend Regulation .11E to reduce the average payout percentage that a facility's gaming floor must be configured to collectively achieve to 87%.

Progressive Jackpots

Regulation .30D identifies the steps necessary to transfer an available progressive jackpot amount to another machine. In order to transfer an available progressive jackpot amount to another machine, Regulation .30D(3) requires disclosure of the intent to transfer the amount on the front of a video lottery terminal in a manner specified by the commission for at least 30 days prior to the intended date of transfer. These regulations amend Regulation .30D(3) so as to reduce to 14 days the number of days that the required disclosure must be posted.

Regulation .30E(1)(i) and (ii) make stylistic changes to the regulations.

Regulation .30E(2) makes a corresponding change to a requirement related to the number of days that the intent to transfer an available progressive jackpot amount must be posted.

Legal Issue

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Maryland State Lottery and Gaming Control Agency cites §§ 9-1A-02, 9-1A-04, and 9-1A-22 of the State Government Article as authority for the regulations.

Section 9-1A-02(a) requires the State Lottery and Gaming Control Commission, with the assistance of the agency, to regulate the operation of video lottery terminals. Section 9-1A-02(a)(3) requires the commission to regulate the operation of table games. Section 9-1A-04(d)(6) requires the commission to adopt regulations that define and limit odds for video lottery terminals and table games and the method of operation of the video lottery terminals and table games.

Section 9-1A-22(a) requires that a video lottery terminal must have an average payout percentage of at least 87%. Section 9-1A-22(b) authorizes the commission by regulation to establish an average payout percentage of more than 90% but not more than 95% for video lottery operation licensees. Section 9-1A-22(c) authorizes the commission to approve an average payout percentage of more than 95% for the video lottery terminals at a video lottery facility.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

The agency advises that no gaming facility plans to reduce its gaming floor average payout percentage at this time. For calendar year 2014 the gaming floor average payout percentage for each facility was as follows:

Hollywood Casino Perryville	90.36%
Horseshoe Casino	91.79%
Maryland Live! Casino	91.82%
Casino at Ocean Downs	92.64%
Rocky Gap Casino	91.65%

Fiscal Analysis

There is likely no material fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations lower the average payout percentage of a gaming floor from a percentage that exceeds 90% to a percentage that exceeds 87%. Additionally, the regulations alter certain table games surveillance requirements and disclosure requirements for progressive jackpot transfers.

The agency advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs that the regulations likely have no material impact because all casinos currently have payout percentages above 90% and, according to the agency, the casinos have not indicated that the payout percentages will be reduced. In surrounding states, casinos have average payout percentages of approximately 90%, so the Department of Legislative Services assumes Maryland casinos would keep their average payout percentages above 89% to remain competitive with surrounding casinos. For example, casinos in West Virginia are required to have a minimum video lottery terminal payout percentage of 80%, but West Virginia casinos opt to have payout percentages of above 89% to be competitive with other casinos in the region.

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 regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Additional Comments

While the Department of Legislative Services does not think the casinos will decrease their gaming floor payout percentages, doing so could have a material fiscal impact on State and local agencies. If all casinos in the State decreased their payout percentages to 87%, gaming revenues would increase by \$406 million, of which \$176 million would go to the Education Trust Fund and \$167 million would go to casino licensees. However, the industry standard for payout percentages of video lottery terminals appears to be between 89% and 92%. If all casinos in the State decreased their payout percentages to 89%, gaming revenues would increase by \$235 million, of which \$102 million would go to the Education Trust Fund and \$97 million would go to casino licensees.

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