

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
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		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/5/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

36	06	02	01-.02
36	06	03	01
36	06	01	01-.03

3. Name of Promulgating Authority

Maryland State Lottery and Gaming Control Agency

4. Name of Regulations Coordinator	Telephone Number
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Title 36
MARYLAND STATE LOTTERY AND GAMING CONTROL
AGENCY

Subtitle 06 ELECTRONIC GAMING DEVICES

36.06.02 Lawful and Unlawful Electronic Gaming Devices

Subtitle 06 ELECTRONIC GAMING DEVICES

36.06.03 Electronic Gaming Device Enforcement

Subtitle 06 ELECTRONIC GAMING DEVICES

36.06.01 General

Authority: 36.06.01: Criminal Law Article, §§12-301 and 12-301.1, Annotated Code of Maryland; Section 6, Chapter 603, Acts of 2012; 36.06.02: Criminal Law Article, §§12-301 – 12-308, Annotated Code of Maryland; and 36.06.03: Criminal Law Article, §§12-113 and 12-301.1, Annotated Code of Maryland.

Notice of Proposed Action

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The Maryland State Lottery and Gaming Control Agency proposes to adopt under a new subtitle, Subtitle 06 Electronic Gaming Devices:

- (1) New Regulations .01 —.03 under a new chapter, COMAR 36.06.01 General;
- (2) New Regulations .01 and .02 under a new chapter, COMAR 36.06.02 Lawful and Unlawful Electronic Gaming Devices; and
- (3) New Regulation .01 under a new chapter, COMAR 36.06.03 Electronic Gaming Device Enforcement.

This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on June 23, 2016, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to (1) Define an electronic gaming device; and (2) Outline the Maryland State Lottery and Gaming Control Commission’s purview and enforcement powers over these devices.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to James B. Butler, Director of Legislative and Policy Affairs, Maryland Lottery and Gaming Control Agency, 1800 Washington Blvd., Suite 330, Baltimore, MD 21230, or call (410) 230-8781, or email to jbutler@maryland.gov, or fax to (410) 230-8727. Comments will be accepted through September 6, 2016. A public hearing will be held, A public meeting on these regulations will be held on Friday, August 26, 2016 at 10:00 a.m., at the Maryland Lottery and Gaming Control Agency Headquarters, 1800 Washington Boulevard, Suite 330, Baltimore, MD 21230. Please contact James B. Butler, Director of Legislative and Policy Affairs, if additional information is needed or if you require an accommodation in order to participate in the meeting.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2017

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:
General (Gaming Proceeds)

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:
To incorporate specific statutory requirements as provided for under Chapter 595 of the 2016 Laws of Maryland (Senate Bill 941) relating to the licensing and regulatory process of Electronic Gaming Devices and Skills-Based Amusement Devices.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

To incorporate specific statutory requirements as provided for under Chapter 595 of the 2016 Laws of Maryland (Senate Bill 941) relating to the licensing and regulatory process of Electronic Gaming Devices and Skills-Based Amusement Devices.

G. Small Business Worksheet:

(June 24, 2016)

Subtitle 06 ELECTRONIC GAMING DEVICES

36.06.01 General

Criminal Law Article, §§12-301 and 12-301.1, Annotated Code of Maryland; Section 6, Chapter 603, Acts of 2012

.01 Scope.

A. *This subtitle applies to electronic gaming devices regulated by the Commission under Criminal Law Article, §§ 12-301—12-308, Annotated Code of Maryland.*

B. *This subtitle applies to all electronic gaming devices, regardless of whether the device delivers a game through the Internet or offers Internet or other services.*

C. *This subtitle does not apply to:*

(1) *Slot machines that are subject to regulation by the Comptroller under Criminal Law Article, §12-304, Annotated Code of Maryland;*

(2) *Lottery devices used by the Agency or, under the authority of the Agency, by a licensed retailer under State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland;*

(3) *Video lottery terminals or tables games permitted and licensed under State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland;*

(4) *Paper tip jar gaming where authorized; or*

(5) *Skills-based amusement devices that award prizes and are operated in compliance with COMAR 36.08.*

.02 Definitions.

A. *In this subtitle, the following terms have the meanings indicated.*

(1) *“Antique electronic gaming device” means an electronic gaming device that is at least 25 years old.*

(2) *“Electronic gaming device” means an electronic machine, apparatus, or device that can be configured to:*

(a) *Operate by inserting, depositing, or placing with another person money, a token, or another object; and*

(b) *Through a preponderance of the element of chance, the reading of a game of chance, the delivery of a game of chance, or any other outcome unpredictable by the user, award the user anything of value other than an award of free play or the right to receive anything of value other than an award of free play.*

.03 Counties.

A. *The Commission may:*

(1) *Review a county’s licensing and regulatory process for electronic gaming devices, and*

(2) *Determine upon review that:*

(a) *The county’s licensing and regulatory process for electronic gaming devices is equivalent to a license from the Commission, and*

(b) *A county license for owning, operating, or manufacturing an electronic gaming device in the county is equivalent to a State license.*

B. *A decision of the Commission on the equivalency of a county’s licensing and regulatory process for electronic gaming devices under this Regulation is final and not appealable.*

C. *Baltimore City and Baltimore County. Operators of amusement games in Baltimore City or Baltimore County shall be required to be licensed by the jurisdiction in which they are located.*

36.06.02 Lawful and Unlawful Electronic Gaming Devices

Criminal Law Article, §§12-301—12-308, Annotated Code of Maryland

.01 Lawful Electronic Gaming Devices.

An electronic device is lawful if it is:

A. *An antique electronic gaming device that is not operated for gambling purposes.*

B. *An electronic gaming device that is in the possession of or being transported by a person to demonstrate or sell the electronic gaming device to a prospective customer who is allowed to purchase an electronic gaming device if the person:*

(1) *Operates with or under a distributorship contract with a manufacturer of an electronic gaming device;*

(2) *Is registered with the United States Department of Justice as a distributor of electronic gaming devices; and*

- (3) Has provided the Secretary of State Police with a copy of the person's current federal registration.*
- C. An instant bingo machine operated in compliance with COMAR 36.07.*

.02 Unlawful Electronic Gaming Devices.

An electronic gaming device is unlawful if it is not authorized by Regulation .01 of this chapter.

36.06.03 Electronic Gaming Device Enforcement

Criminal Law Article, §§12-113 and 12-301.1, Annotated Code of Maryland

.01 Enforcement.

A. A decision by the Commission shall be the final determination as to whether a gaming device being operated in the State is:

(1) A legal gaming device or device consistent with the provisions of the Criminal Law Article, Annotated Code of Maryland; and

(2) Being operated in a lawful manner.

B. If a local law enforcement unit fails to promptly enforce a final determination made under §A of this regulation, the Commission shall refer the matter to the Department of State Police for enforcement of the law.

C. If a local law enforcement agency in Baltimore City or Baltimore County refuses to enforce a provision regarding the legal operation of amusement games, the Commission shall refer the matter to the appropriate office of the State's Attorney.