

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Maryland State Lottery and Gaming Control Agency
(DLS Control No. 20-083)**

Overview and Legal and Fiscal Impact

These regulations make changes and additions to existing regulations governing gaming licensure and facilities in the State. Specifically, the regulations make definitional changes, alter video lottery investigation and licensing requirements, video lottery enforcement provisions, video lottery facility minimum internal control standards, video lottery technical standards, table games procedures, and amusement gaming licenses.

The regulations present no legal issues of concern.

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

Regulations of COMAR Affected

Maryland State Lottery and Gaming Control Agency:

Gaming Provisions: General: COMAR 36.03.01.02

Investigation and Licensing: COMAR 36.03.02.01 - .04, .06, .12, .17, .and .18

Enforcement: COMAR 36.03.04.03

Enforcement of Voluntary Exclusion Program: COMAR 36.03.06.01 and .02

Video Lottery Facility Minimum Internal Control Standards:

COMAR 36.03.10.03, .16, .20, and .28

Video Lottery Terminals: Video Lottery Technical Standards:

COMAR 36.04.01.18 and .28

Table Games: Table Game Procedures: COMAR 36.05.03.23

Skill-based Amusement Devices: Amusement Gaming License: COMAR 36.08.03.02

Legal Analysis

Summary of Regulations

Definitional Changes (COMAR 36.03.01.02)

The regulations add definitional language for the term “change in employment status” to mean, for an individual holding an unexpired video lottery employee license: (1) employment at a facility that is different from the facility at which the individual is currently employed;

(2) re-employment at a facility at which the individual was previously employed; and (3) except for an unexpected termination from employment, a separation from employment with a facility.

Video Lottery Investigation and Licensing (COMAR 36.03.02)

The regulations alter and clarify the application and renewal process for obtaining a video lottery employee license by:

- altering an existing regulation providing that the burden of proof shall be on an applicant to show by clear and convincing evidence that the applicant complies with the regulations of the State Lottery and Gaming Control Commission regarding eligibility and qualifications for a license to instead provide that an applicant and licensee shall always bear the burden of proof to show by clear and convincing evidence that the applicant or licensee complies with the laws and regulations of the commission regarding eligibility and qualifications for the license, including (1) when an applicant submits a license application; (2) at a hearing on a recommended denial of a license; (3) when a video lottery employee licensee notifies the commission of an intended change of employment status; (4) at a hearing on a recommended revocation of a license; and (5) in any other instance where qualifications for a license issued under a provision of Title 9, Subtitle 1A of the State Government article are at issue;
- providing that a licensee who has notified the commission of an intended change in employment status shall reimburse the commission for (1) administrative costs associated with performing background investigations of the licensee; and (2) any payments made by the commission to a person approved by the commission to conduct the background investigations;
- providing that failure to reimburse the commission for specified background investigation-related costs shall be grounds for disapproval of a licensee's change in employment status;
- providing that the commission may require an advance deposit for the commission's estimate of administrative costs of conducting a licensee's background investigation for a change in employment status;
- providing that a licensee who has notified the commission of an intended change in employment status shall provide to the commission (1) the licensee's full name and any previous names or aliases; (2) the licensee's date of birth; (3) the licensee's physical description; (4) the licensee's home and business addresses and telephone numbers; (5) the licensee's driver's license number and state of issuance; (6) the licensee's Social Security number; (7) the licensee's passport or identification photo; (8) the licensee's fingerprints; and (9) any other document or information required by the commission;
- altering an existing regulation mandating the submission of three complete sets of an individual's fingerprints and a specified background form to the commission to instead require their submission if directed by the commission;

- altering an existing regulation to provide that an individual who is required to provide personal and background information to the commission, as specified, is required to provide a statement that irrevocably gives consent to the commission and other specified entities to verify all information provided in all documents or forms submitted to the commission; and
- providing that a licensee is required to authorize the commission and, if appropriate, a location commission to have access to any and all information the licensee has provided to any other jurisdiction while seeking a similar license in the other jurisdiction, as well as the information obtained by the other jurisdiction during the course of any investigation it may have conducted.

The regulations also establish several new provisions relating to commission licensures involving “principal entities” (person’s other than individuals, that are principals), including providing that:

- a principal entity may request, and the commission may approve, a waiver of full background investigation;
- a principal entity approved for a waiver by the commission is deemed to be an approved institutional investor;
- an institutional investor may maintain a waiver under specified circumstances;
- the waiver approval is valid for 5 years from the date of approval;
- an institutional investor must notify the commission if it fails to maintain qualifications for maintaining a waiver; and
- the commission may require an institutional investor to submit a new waiver application under specified circumstances.

The regulations alter existing provisions relating to video lottery employee licenses. The regulations provide that, unless an individual holds a valid video lottery employee license issued by the commission that is in good standing, the individual may not be employed as a licensed facility operator, manufacturer, or contractor as a video lottery employee. Additionally, the regulations specify that existing regulations relating to investigation and licensing do not preclude a licensee from being employed by more than one facility while the individual’s license is in good standing.

The regulations also increase a monetary threshold on services that a vendor may provide to a video lottery applicant or licensee before being required to register with the commission. Current regulations provide that a vendor that provides, or anticipates providing nongaming related goods and services to a video lottery applicant or licensee valued from \$10,000 to \$299,999 in a

calendar year must register with the commission. The regulations increase this threshold from \$10,000 to \$20,000.

The regulations alter existing provisions of COMAR relating to the commission's issuance of identification cards to individuals licensed as video lottery employees. The regulations repeal an existing provision exempting the issuance of identification cards from a fee, and clarify that the commission may take enforcement action against a licensee based on information obtained while reviewing a licensee's notification of an intended change in employment status.

Enforcement (COMAR 36.03.04.03 and 36.03.06)

The regulations provide that a licensee may not fail to maintain a video lottery employee license in good standing. A licensee who fails to meet this requirement would be subject to existing statutory and regulatory procedures and penalties.

The regulations also provide that a facility operator's use of technology comply with existing regulations relating to individuals who have requested to be placed on a list of individuals with gambling problems who have been voluntarily excluded from certain gaming facilities and activities in the State, otherwise known as the voluntary exclusion list. The regulations provide that if a facility operator uses technology for the purpose of complying with these requirements, the operator must ensure that the technology (1) complies with all applicable State requirements; and (2) is designed to prevent unauthorized access to confidential records. A facility operator must include a statement regarding compliance with these requirements as part of an annual report that is required to be submitted to the commission under existing regulations.

Video Lottery Facility Minimum Internal Control Standards (COMAR 36.03.10)

The regulations make several changes to existing regulations governing video lottery facility minimum internal control standards. The regulations provide for a video lottery facility's accounting department to report certain exceptions relating to specified documents to specified departments within the video lottery facility within a specified period of time of discovery, and alter required internal audit standards for a video lottery facility.

The regulations authorize a facility operator to accept a check issued to an individual as a payout in connection with gaming activity from a facility operator that holds a valid gaming license in another jurisdiction, unless the check exceeds – or in the case of multiple checks, the aggregate exceeds – \$25,000 during a gaming day.

The regulations also include provisions relating to the substitution, consolidation, and redemption of counter checks.

Video Lottery Technical Standards (COMAR 36.04.01)

The regulations make changes to technical requirements for video lottery terminal tower lights and progressive controllers for progressive video lottery terminals.

Table Games Procedures (COMAR 36.05.03.23)

The regulations make changes to table games procedures by repealing a requirement that a manual table game payout document may be used only when the video lottery system is unable to generate a table game payout document.

Amusement Gaming Licenses (COMAR 36.08.03.02)

Finally, the regulations alter existing regulations relating to amusement gaming licenses. The regulations alter a requirement that an amusement gaming licensee register annually to instead require a licensee to register every other year.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The State Lottery and Gaming Control Agency cites § 9-1A-01, § 9-1A-02, § 9-1A-04, § 9-1A-06, § 9-1A-07, § 9-1A-12, § 9-1A-16, § 9-1A-19, § 9-1A-20, § 9-1A-24, and § 9-1A-25 of the State Government Article and §§ 12-301 and 12-301.1 of the Criminal Law Article as statutory authority for the regulations.

Section 9-1A-02 requires the commission to regulate the operation of video lottery terminals and table games, and requires the agency to provide assistance to the commission in the performance of its duties. Section 9-1A-04 provides for the powers and duties of the commission and requires the commission to adopt specified regulations, including regulations relating to licensure, video lottery terminals and table games, practice and procedures for negotiable transactions involving players, management controls, and otherwise carrying out the statutory provisions governing video lottery terminals under Title 9, Subtitle 1A of the State Government Article.

Section 9-1A-06 authorizes the commission, by regulation, to require that a person that contracts with a licensee and the person's employees to obtain a specified license under specified circumstances, and authorizes the commission to exempt categories of video lottery employees who are not directly involved in the video lottery operations from specified licensing requirements.

Section 9-1A-07 requires applicants and licensees to consent to inspections, searches, and seizures authorized by regulations, and authorizes the commission to establish, by regulation, categories of individuals required to be photographed and fingerprinted in relation to licensure. Sections 9-1A-12 and 9-1A-16 establish requirements for licensure and provide for the waiver of specified licensure requirements under certain circumstances, respectively.

Section 9-1A-20 relates to background investigations and criminal history records of video lottery licensees and operators. Sections 9-1A-24 and 9-1A-25 relate to conditions pertaining to video lottery licenses and the denial, suspension, and revocation of licenses, respectively.

Section 12-301.1 of the Criminal Law Article requires the commission to adopt specified regulations, including regulations pertaining to gaming devices and the licensure of owners, operators, and manufacturers of electronic gaming devices authorized under State law.

The remaining cited authority is not relevant to these regulations. The relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

In response to suggestions from the Department of Legislative Services, staff for the agency agree to make technical changes more clearly identifying new language being added in the regulations.

Fiscal Analysis

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

Agency Estimate of Projected Fiscal Impact

The agency advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs that the regulations have no material fiscal impact. Vendors that provide goods or services of between \$10,000 and \$20,000 will no longer have to register with the State Lottery and Gaming Control Commission (SLGCC) and pay the \$100 vendor registration fee every five years. Although SLGCC will no longer receive these vendor registration fees, SLGCC will also not incur expenditures associated with processing vendor registrations, so there is no material fiscal impact.

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. Approximately 251 vendors will no longer be required to register with SLGCC and pay the \$100 registration fee every five years.

Contact Information

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