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Greenip, Ports, Flanagan, Cadden, Schade, O'Donnell, Klima, Getty, Morgan, and Rzepkowski

Introduced and read first time: January 19, 1998

Assigned to: Judiciary

1 AN ACT concerning

A BILL ENTITLED

1	11111111111	Concerning	5		

- $3 \ \ FOR \ the \ purpose \ of \ prohibiting \ a \ person \ from \ knowingly \ allowing \ the \ advertisement$
- 4 of certain activities related to commercial casino gambling; specifying certain
- 5 activities to which this Act applies; providing certain penalties; requiring that
- 6 the fines collected for the violation of this Act be used solely for a certain
- 7 purpose; defining certain terms; and generally relating to the advertisement of
- 8 commercial casino gambling activities.
- 9 BY adding to
- 10 Article 27 Crimes and Punishments
- 11 Section 262
- 12 Annotated Code of Maryland
- 13 (1996 Replacement Volume and 1997 Supplement)
- 14 BY repealing and reenacting, without amendments,
- 15 Article Health General
- 16 Section 19-803
- 17 Annotated Code of Maryland
- 18 (1996 Replacement Volume and 1997 Supplement)
- 19 BY repealing and reenacting, with amendments,
- 20 Article Health General
- 21 Section 19-804
- 22 Annotated Code of Maryland
- 23 (1996 Replacement Volume and 1997 Supplement)

24 Preamble

- 25 WHEREAS, Maryland has a substantial governmental interest in the health,
- 26 safety, and welfare of its citizens; and

- 1 WHEREAS, Commercial casino gambling is illegal in Maryland; and
- WHEREAS, Maryland has a substantial governmental interest in discouraging
- 3 the demand for commercial casino gambling by the citizens of Maryland; and
- 4 WHEREAS, The existence of commercial casinos in several states adjacent or
- 5 close to Maryland may have a negative effect on the Maryland economy and
- 6 contribute to an increase in the number of Maryland citizens seeking assistance in
- 7 Maryland as problem and compulsive gamblers; and
- 8 WHEREAS, Commercial casino gambling establishments often advertise goods,
- 9 services, and entertainment, such as food, hotel rooms, and concerts, that do not
- 10 directly involve gambling to encourage individuals to participate in gambling
- 11 activities offered by the casino; and
- WHEREAS, Commercial speech receives limited protection under the First
- 13 Amendment to the United States Constitution as interpreted by the United States
- 14 Supreme Court in Central Hudson Gas & Electric Corp. v. Public Service Commission,
- 15 447 U.S. 557 (1980) and subsequent cases; and
- 16 WHEREAS, The United States Congress, with certain exceptions, has banned
- 17 the radio or television broadcast of "any advertisement of or information concerning
- 18 any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in
- 19 part upon lot or chance" under 18 U.S.C. 1304; and has also banned the mailing of
- 20 "any newspaper, circular, pamphlet, or publication of any kind containing any
- 21 advertisement of any lottery, gift enterprise, or scheme" under 18 U.S.C. 1302; and
- WHEREAS, A prohibition of the advertisement of commercial casino gambling
- 23 activities on Maryland television and radio stations, in Maryland print media, and on
- 24 Maryland billboards directly advances the interest of the State of Maryland in
- 25 discouraging the demand for commercial casino gambling activities; now, therefore,
- 26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 27 MARYLAND, That the Laws of Maryland read as follows:
- 28 Article 27 Crimes and Punishments
- 29 262.
- 30 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
- 31 INDICATED.
- 32 (2) (I) "ADVERTISEMENT" MEANS A COMMERCIAL MESSAGE IN THE
- 33 STATE THAT IS:
- 34 1. BROADCAST BY A TELEVISION OR RADIO STATION IN THE
- 35 STATE;

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(E)

HOUSE BILL 159

1 TRANSMITTED BY ORIGINATION CABLECASTING BY A 2 MARYLAND CABLE TELEVISION SYSTEM OPERATOR, UNLESS STATE REGULATION OF 3 CABLECASTING IS PREEMPTED BY FEDERAL LAW: 3. PRINTED IN A MAGAZINE OR NEWSPAPER PUBLISHED IN 5 THE STATE; OR DISPLAYED ON AN ADVERTISING BILLBOARD, SIGN, 6 7 DISPLAY, OR SIMILAR DEVICE LOCATED IN THE STATE. 8 (II)"ADVERTISEMENT" INCLUDES A COMMERCIAL MESSAGE THAT: USES THE WORD "CASINO". UNLESS THE WORD IS PART OF 10 THE LEGAL NAME OF A MULTIPURPOSE ESTABLISHMENT; OR DISPLAYS GAMBLING PARAPHERNALIA CONNECTED WITH 12 ANY GAMBLING ACTIVITY THAT IS ILLEGAL IN THE STATE. "CASINO" MEANS AN INDIVIDUAL, PARTNERSHIP, BUSINESS TRUST, 13 (3) 14 ASSOCIATION, LIMITED LIABILITY COMPANY, CORPORATION, OR OTHER LEGAL OR 15 COMMERCIAL ENTITY: (I) THAT USES THE WORD "CASINO" AS PART OF ITS PROPER NAME: 16 17 OR (II)THAT IS IN THE BUSINESS OF CONDUCTING COMMERCIAL 18 19 CASINO GAMBLING. A PERSON IN THE STATE MAY NOT KNOWINGLY ALLOW THE 20 21 ADVERTISEMENT OF COMMERCIAL CASINO GAMBLING. 22 THE ACTIVITY PROHIBITED UNDER SUBSECTION (B) OF THIS SECTION (C) 23 INCLUDES: AN ACTIVITY THAT OFFERS THE PAYMENT OF PRIZES ON THE BASIS 25 OF CHANCE FOR A CONSIDERATION THAT IS CARRIED ON BY A CASINO AND THAT IS 26 PROHIBITED BY THE STATE; AND ANY OTHER ACTIVITY CARRIED ON AT A CASINO THAT IS INTENDED 27 28 TO ENCOURAGE PARTICIPATION IN GAMBLING AT A CASINO AND THAT IS CARRIED 29 ON AT NO PROFIT TO A CASINO. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR 30 (D) 31 AND IS SUBJECT TO A FINE OF: 32 FOR A FIRST OFFENSE, \$10,000; AND (1) 33 FOR A SECOND OR SUBSEQUENT OFFENSE, NOT LESS THAN \$20,000 (2) 34 AND NOT EXCEEDING \$50,000.

EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

1

HOUSE BILL 159

FINES COLLECTED UNDER THIS SECTION SHALL BE USED SOLELY TO

(F) 2 OPERATE THE CENTER FOR COMPULSIVE GAMBLERS ESTABLISHED UNDER § 19-803 3 OF THE HEALTH - GENERAL ARTICLE. 4 Article - Health - General 5 19-803. As a pilot project, the Secretary shall establish a center for compulsive gamblers 6 7 at a place that the Secretary determines to be accessible to a major population center 8 of this State. 9 19-804. 10 (a) The Secretary may make grants from or agreements for the use of 11 State and federal funds to help public agencies or nonprofit organizations operate the 12 center for compulsive gamblers and establish and operate local programs to provide 13 the following for compulsive gamblers: 14 (i) Inpatient services. 15 Outpatient services. (ii) Partial care services. 16 (iii) 17 Aftercare services. (iv) 18 Consultative services. (v) 19 (vi) Educational services. 20 (vii) Other preventive or rehabilitative services or treatment. 21 Research and training that are designed to improve or extend these (2) 22 services are proper items of expense. 23 (b) Services under this subtitle shall be provided by public agencies or, under 24 contract, by nonprofit organizations. FINES COLLECTED FOR THE VIOLATION OF ARTICLE 27, § 262 OF THE 25 26 CODE, WHICH PROHIBITS THE ADVERTISEMENT OF ACTIVITIES RELATED TO 27 COMMERCIAL CASINO GAMBLING, SHALL BE DEPOSITED IN A SPECIAL FUND TO BE 28 APPROPRIATED SOLELY TO OPERATE THE CENTER FOR COMPULSIVE GAMBLERS, IN 29 ACCORDANCE WITH THE STATE BUDGET. 30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 31 October 1, 1998.