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By: **Washington County Delegation**

Introduced and read first time: February 13, 1998

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Washington County Gaming Commission - Tip Jar Regulation**

3 FOR the purpose of altering certain eligibility criteria for membership on the  
4 Washington County Gaming Commission; authorizing a member of the  
5 Commission to serve for a certain number of terms; providing for certain  
6 procedures for obtaining criminal history records checks; altering the  
7 requirements for certain organizations to contribute certain amounts to certain  
8 charitable purposes; authorizing a certain county agency to deny a license under  
9 certain circumstances; authorizing the County Commissioners of Washington  
10 County to delegate certain hearing authority to the Office of Administrative  
11 Hearings; providing for the conditions of delegation and judicial review of the  
12 hearing authority; authorizing the County Commissioners to impose a fine  
13 under certain conditions; clarifying the applicability of certain criminal  
14 penalties; and generally relating to the Washington County Gaming  
15 Commission and regulating of tip jars in Washington County.

16 BY repealing and reenacting, with amendments,  
17 Article 27 - Crimes and Punishments  
18 Section 255C(c), (e), (q), (t), (u), and (v)  
19 Annotated Code of Maryland  
20 (1996 Replacement Volume and 1997 Supplement)

21 BY repealing and reenacting, without amendments,  
22 Article 27 - Crimes and Punishments  
23 Section 255C(s)  
24 Annotated Code of Maryland  
25 (1996 Replacement Volume and 1997 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
27 MARYLAND, That the Laws of Maryland read as follows:

**Article 27 - Crimes and Punishments**

2 255C.

3 (c) (1) The Commission consists of seven members appointed as follows:

4 (i) Three members appointed by the Board;

5 (ii) One member appointed by the Chairman of the Washington  
6 County House of Delegates Delegation, with the concurrence of the County's House  
7 Delegation;

8 (iii) One member appointed by the State Senators whose districts  
9 are within or include part of Washington County;

10 (iv) One member from Washington County to represent  
11 restaurants, taverns, and the alcoholic beverages industry in the County, appointed  
12 by the Washington County House and Senate Delegations; and

13 (v) One member from the Washington County Clubs Association,  
14 appointed by the Washington County House and Senate Delegations.

15 (2) A member of the Commission appointed under paragraph (1)(i), (ii),  
16 or (iii) of this subsection may not:

17 (i) Hold a tip jar license or a wholesaler's license;

18 (ii) Be employed by a person who holds a tip jar license or a  
19 wholesaler's license;

20 (iii) Hold any ownership interest in or receive any direct benefit  
21 from the holder of a tip jar license or a wholesaler's license; or

22 (iv) Serve on any board of directors or as an officer of any  
23 organization that [is qualified under § 501(c)(3) of the Internal Revenue Code]  
24 APPLIES FOR FUNDS FROM THE COMMISSION.

25 (3) IF AN ORGANIZATION, THAT HAS ON ITS BOARD OF DIRECTORS OR AS  
26 AN OFFICER A MEMBER OF THE COMMISSION, APPLIES FOR FUNDS FROM THE  
27 COMMISSION DURING THE MEMBER'S TERM, THE MEMBER OF THE COMMISSION MAY  
28 NO LONGER SERVE ON THE COMMISSION AND A NEW MEMBER SHALL BE APPOINTED  
29 TO COMPLETE THE TERM.

30 [(3)] (4) A member of the Commission shall be a resident of Washington  
31 County.

32 [(4)] (5) The term of a member of the Commission is 2 years and begins  
33 on July 1.

34 [(5)] (6) A member of the Commission may not be reappointed within 5  
35 years after completion of [a full 2-year term] TWO 2-YEAR TERMS.

1           [(6)]   (7)    The terms of members of the Commission are staggered as  
2 required by the terms in effect for members of the Commission on July 1, 1995.

3           [(7)]   (8)    At the end of a term, a member continues to serve until a  
4 successor is appointed.

5           [(8)]   (9)    A member who is appointed after a term has begun serves only  
6 for the rest of the term and until a successor is appointed.

7           [(9)]   (10)   A member of the commission:

8                       (i)    May not receive compensation; but

9                       (ii)   May be entitled to reimbursement for expenses, in accordance  
10 with a policy of the Board.

11       (e)    (1)    The Board shall adopt regulations to carry out this section.

12           (2)    The County agency may recommend to the Board regulations or  
13 guidelines concerning the administration of this section.

14           (3)    By regulation, the Board:

15                       (i)    May require an applicant for a tip jar license or a wholesaler's  
16 license or any individual involved in the operation of a tip jar to be fingerprinted; and

17                       (ii)   May direct the County agency to obtain a criminal records check  
18 from the Criminal Justice Information System Central Repository of the Department  
19 of Public Safety and Correctional Services.

20           (4)    (I)    IF THE BOARD DIRECTS THE COUNTY AGENCY TO OBTAIN  
21 CRIMINAL HISTORY RECORDS CHECKS, THE COUNTY AGENCY SHALL APPLY TO THE  
22 CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE  
23 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES FOR A STATE  
24 CRIMINAL HISTORY RECORDS CHECK FOR EACH APPLICANT FOR A TIP JAR LICENSE  
25 OR A WHOLESALER'S LICENSE OR ANY INDIVIDUAL INVOLVED IN THE OPERATION OF  
26 A TIP JAR.

27                       (II)   THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL  
28 REPOSITORY SHALL PROVIDE THE REQUESTED INFORMATION IN ACCORDANCE WITH  
29 §§ 742 THROUGH 755 OF THIS ARTICLE.

30                       (III)   AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY  
31 RECORDS CHECK, THE COUNTY AGENCY SHALL SUBMIT TO THE CRIMINAL JUSTICE  
32 INFORMATION SYSTEM CENTRAL REPOSITORY:

33                               1.    A COMPLETE SET OF THE EMPLOYEE'S LEGIBLE  
34 FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CRIMINAL  
35 JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY; AND

THE FEE AUTHORIZED UNDER § 746(B)(8) OF THIS ARTICLE  
FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS.

3 (q) (1) There is a Washington County Gaming Fund established by the  
4 Commission.

5           (2)       In this subsection, "gross profits" means the total proceeds from the  
6 operation of a tip jar less the amount of prizes or money winnings distributed.

(3) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, a person that qualifies for a tip jar license under subsection (f)(1)(v), (vi), or (vii) of this section shall deposit with a financial institution that the Commission designates and to the credit of the Fund the gross profits from the tip jars that the person operates.

(ii) To offset the costs of operating a tip jar, a person that qualifies for a tip jar license under subsection (f)(1)(v), (vi), or (vii) of this section may retain the lesser of \$45 or 50% of the gross profits from each tip jar game.

14 (iii) The gross profits of a tip jar operated by a person that is subject  
15 to this paragraph may not exceed \$250.

16 (4) (i) [Subject to subparagraph (ii) of this paragraph, a] A fraternal,  
17 civic, veterans, or bona fide charitable organization or sportsmen's association that  
18 qualifies for a tip jar license under subsection (f)(1)(iii) or (iv) of this section  
19 shall[contribute to charitable purposes each year:

20 1. 10% of the gross profits earned between July 1, 1996 and  
21 June 30, 1997;

22 2. 15% of the gross profits earned between July 1, 1997 and  
23 June 30, 1998; and

24 3. 20% of the gross profits earned between July 1, 1998 and  
25 June 30, 1999, and each 12-month period thereafter] DEPOSIT WITH A FINANCIAL  
26 INSTITUTION THAT THE COMMISSION DESIGNATES AND TO THE CREDIT OF THE  
27 FUND 15% OF THE GROSS PROFITS EARNED DURING THE PERIOD JULY 1 THROUGH  
28 JUNE 30 EACH YEAR.

29 [(ii) Contributions required under subparagraph (i) of this  
30 paragraph shall be divided with:

31 1. One-half being deposited with a financial institution that  
32 the Commission designates and to the credit of the Fund; and

33 2. One-half contributed directly for charitable purposes  
34 chosen by the licensee.

35 (iii) The direct contributions under subparagraph (ii)2 of this  
36 paragraph:

1                               1.       May include up to 5% of the gross profits earned during  
2 the applicable period as in kind contributions, including contributions of free food,  
3 beverages, and other goods and free rentals of space, materials, and equipment; and

4                               2.       Shall be contributed in accordance with guidelines  
5 established by the Board by regulation after receiving input from the Washington  
6 County Clubs Association and holding a public hearing.

7                               (iv)]    (II)    If an organization that is subject to this subsection does  
8 not contribute in a year the full amount required under subparagraph (i) of this  
9 paragraph, the organization in the next year shall deposit, with a financial institution  
10 that the Commission designates and to the credit of the Fund, the balance of the  
11 amount required to be contributed.

12                           (5)       The Board shall establish the time, method of deposit, and other  
13 procedures necessary to carry out paragraphs (3) and (4) of this subsection.

14                           (6)       The Commission may use money in the Fund to reimburse the Board  
15 for the costs to the County for administering this section in accordance with a written  
16 agreement between the Board and the Commission.

17                           (7)       Each year, after the reimbursement under paragraph (6) of this  
18 subsection, the Commission shall distribute:

19                               (i)       60 percent of the moneys deposited in the Fund to bona fide  
20 charitable organizations in the County, subject to any restrictions that the Board may  
21 adopt by regulation; and

22                               (ii)      40 percent of the moneys deposited in the Fund to the  
23 Washington County Volunteer Fire and Rescue Association.

24                           (8)       The Board may not reduce the total of its appropriations to nonprofit  
25 organizations in the County budget below the total appropriation to nonprofit  
26 organizations that is in the budget for the 1996 Fiscal Year.

27       (s)       (1)       Subject to subsection (u) of this section, the County agency may deny  
28 a tip jar license or a wholesaler's license to an applicant or discipline a holder of a  
29 license in accordance with this subsection.

30                           (2)       If the County agency finds that a person has violated this section, the  
31 person is subject to:

32                               (i)       For a first offense, denial or suspension of the person's tip jar  
33 license or wholesaler's license and a civil fine not exceeding \$1,500; and

34                               (ii)      For a subsequent offense:

35                                       1.       A civil fine not exceeding \$5,000; and



1 (III) JUDICIAL REVIEW OF DISPUTED ISSUES OF FACT SHALL BE  
2 CONFINED TO THE RECORD FOR JUDICIAL REVIEW, UNLESS THE FINES EXCEED  
3 \$5,000 IN WHICH CASE JUDICIAL REVIEW SHALL BE DE NOVO.

4 [(4)] (5) If, after notice is given, the person against whom the action is  
5 contemplated:

6 (I) [does] DOES not appear, nevertheless the Board may hear and  
7 determine the matter; OR

8 (II) DOES NOT REQUEST A HEARING, THE BOARD MAY DEEM THAT  
9 THE MATTER HAS BEEN HEARD AND MAY IMPOSE A FINE.

10 (v) (1) A person who does not hold a wholesaler's license may not sell or  
11 wholesale for profit a tip jar packet.

12 (2) A person who does not hold a tip jar license may not offer to another  
13 person a chance from a tip jar or otherwise operate a tip jar.

14 (3) A person who holds a tip jar license may not:

15 (i) Allow an individual under the age of 18 years to play a tip jar;  
16 or

17 (ii) Operate a tip jar on property owned by the Washington County  
18 School Board.

19 (4) [Except for a violation under subsection (r)(5) of this section, a] A  
20 person who violates this [section] SUBSECTION is guilty of a misdemeanor and on  
21 conviction is subject to a fine not exceeding:

22 (i) For a first offense, \$5,000; and

23 (ii) For a subsequent offense, \$10,000.

24 (5) Each sale or offer of a chance from a tip jar is considered a separate  
25 offense.

26 (6) If a person convicted under this section has a liquor license, the  
27 County agency shall recommend to the Board of License Commissioners that the  
28 person's liquor license be suspended for not less than 15 days.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 July 1, 1998.