

SENATE BILL 959

C7

EMERGENCY BILL

8lr3180

By: **Senators Middleton, Miller, Astle, Conway, Currie, DeGrange, Exum, Forehand, Frosh, Garagiola, Haines, Harrington, Kasemeyer, Kelley, King, Kramer, Lenett, Madaleno, McFadden, Munson, Muse, Peters, Pinsky, Pugh, Raskin, Robey, Rosapepe, and Stoltzfus**

Introduced and read first time: February 27, 2008

Rules suspended

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 2008

CHAPTER _____

1 AN ACT concerning

2 ~~Statewide Phase-Out of Electronic Gaming Devices~~
3 Slot Machines - Definition

4 FOR the purpose of ~~prohibiting, on or after a certain date, the purchase, lease, sale,~~
5 ~~transfer, replacement, licensure, or operation of an electronic gaming device in~~
6 ~~the State; providing certain exceptions to the prohibition; defining a certain~~
7 ~~term; providing certain penalties; altering certain definitions~~ altering the
8 definition of "slot machine" for purposes of certain provisions of law to include
9 certain machines, apparatuses, or devices that make a certain award to a user
10 through the reading of a game of chance or the delivery of a game of chance;
11 providing that the definition of "slot machine" does not include certain
12 machines, apparatuses, or devices; authorizing the continued use of certain
13 instant bingo machines under certain circumstances; establishing that the
14 enforcement and implementation of this Act may not be stayed under certain
15 circumstances; making this Act an emergency measure; and generally relating
16 to ~~electronic gaming devices~~ slot machines.

17 ~~BY repealing and reenacting, without amendments,~~
18 ~~Article - Criminal Law~~
19 ~~Section 12-101(a), 12-102, 12-104, 12-111, 12-302, and 13-203~~
20 ~~Annotated Code of Maryland~~
21 ~~(2002 Volume and 2007 Supplement)~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~BY repealing and reenacting, with amendments,~~
 2 ~~Article – Criminal Law~~
 3 ~~Section 12-101(d), 12-301, 12-304(c), and 13-101~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2002 Volume and 2007 Supplement)~~

6 ~~BY adding to~~
 7 ~~Article – Criminal Law~~
 8 ~~Section 12-108.1~~
 9 ~~Annotated Code of Maryland~~
 10 ~~(2002 Volume and 2007 Supplement)~~

11 BY repealing and reenacting, with amendments,
 12 Article – Criminal Law
 13 Section 12-301
 14 Annotated Code of Maryland
 15 (2002 Replacement Volume and 2007 Supplement)

16 BY repealing and reenacting, without amendments,
 17 Article – Criminal Law
 18 Section 12-302
 19 Annotated Code of Maryland
 20 (2002 Replacement Volume and 2007 Supplement)

21 Preamble

22 WHEREAS, Although 37 states have authorized the use of slot machines,
 23 Maryland, with the narrow exception of qualified nonprofit organizations in eight
 24 Eastern Shore counties, has long prohibited a person from locating, possessing,
 25 keeping, or operating a slot machine; and

26 WHEREAS, Despite a clear prohibition in State law as to the use of slot
 27 machines and similar gaming devices, the use, possession, and operation of electronic
 28 gaming devices and machines has expanded throughout the State on a massive scale
 29 under the pretext of bingo, tip jars, and other gaming activities without any State
 30 authorization, oversight, or regulation; and

31 WHEREAS, In many instances these electronic gaming devices are so similar in
 32 appearance and operation to slot machines that the contention that they are not slot
 33 machines is absurd and has caused confusion among the members of the public as well
 34 as law enforcement officers who are charged with upholding the State laws prohibiting
 35 the unauthorized operation of slot machines; and

36 WHEREAS, When the State legislature granted persons the opportunity to
 37 conduct bingo, instant bingo, or other forms of gambling, the legislature did not
 38 contemplate or intend that the games would be played on technologically advanced

1 electronic gaming devices similar in appearance and player operation to slot machines;
2 and

3 WHEREAS, The General Assembly passed a proposed Constitutional
4 Amendment in November 2007 that will be decided by the voters of this State at
5 referendum in November 2008 which would authorize an electronic video lottery
6 terminal program strictly limited to five locations in the State with a limited number
7 of machines and a significant majority of the funding allocated to benefit K-12 and
8 higher education in the State; and

9 WHEREAS, Neither the General Assembly nor the voters have approved
10 measures to authorize expanded electronic gaming in the State; and

11 WHEREAS, Electronic gaming devices have been inappropriately authorized by
12 local governments at a potentially unlimited number of locations and are being
13 operated in this State with no central State oversight or regulation of the revenues
14 and their distribution resulting in tremendous private gain to private operators under
15 the guise of commercial and charitable activity to the detriment of the State; and

16 WHEREAS, The State Lottery is estimated to yield over \$500,000,000 for the
17 general support of State government in fiscal year 2009, and a proliferation of
18 electronic gaming devices without any authorization by the General Assembly will
19 reduce State revenues at a time of great fiscal strain on the State budget; and

20 WHEREAS, Revenues collected from the State Lottery are essential to the State
21 budget and for maintaining critical government services, including funding provided to
22 local governments for K-12 education, teachers' retirement, libraries, aging public
23 school renovation, community colleges, local police aid, and local health departments,
24 and to preserving full funding of local highway user revenues, and Program Open
25 Space funds; and

26 WHEREAS, Without central regulation and oversight by the State, the massive,
27 unregulated, and unauthorized expansion of electronic gaming on an ad hoc basis at
28 the local level creates the opportunity for inappropriate private gain, criminal activity,
29 and other behavior that is harmful to the public interest and is contrary to the best
30 interests of all of the citizens of the State; now, therefore,

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

33 **Article - Criminal Law**

34 ~~12-101.~~

35 ~~(a) In this subtitle the following words have the meanings indicated.~~

36 ~~(d) (1) "Gaming device" means:~~

1 (i) ~~a gaming table, except a billiard table, at which a game of~~
2 ~~chance is played for money or any other thing or consideration of value; or~~

3 (ii) ~~a game or device at which money or any other thing or~~
4 ~~consideration of value is bet, wagered, or gambled.~~

5 (2) ~~“Gaming device” includes a paddle wheel, wheel of fortune, chance~~
6 ~~book, and bingo.~~

7 (3) ~~“GAMING DEVICE” INCLUDES AN ELECTRONIC GAMING~~
8 ~~DEVICE UNDER § 12-108.1 OF THIS SUBTITLE.~~

9 ~~12-102.~~

10 (a) ~~A person may not:~~

11 (1) ~~bet, wager, or gamble;~~

12 (2) ~~make or sell a book or pool on the result of a race, contest, or~~
13 ~~contingency;~~

14 (3) ~~establish, keep, rent, use, or occupy, or knowingly allow to be~~
15 ~~established, kept, rented, used, or occupied, all or a part of a building, vessel, or place,~~
16 ~~on land or water, within the State, for the purpose of:~~

17 (i) ~~betting, wagering, or gambling; or~~

18 (ii) ~~making, selling, or buying books or pools on the result of a~~
19 ~~race, contest, or contingency; or~~

20 (4) ~~receive, become the depository of, record, register, or forward, or~~
21 ~~propose, agree, or pretend to forward, money or any other thing or consideration of~~
22 ~~value, to be bet, wagered, or gambled on the result of a race, contest, or contingency.~~

23 (b) ~~A person who violates this section is guilty of a misdemeanor and on~~
24 ~~conviction is subject to imprisonment for not less than 6 months and not exceeding 1~~
25 ~~year or a fine of not less than \$200 and not exceeding \$1,000 or both.~~

26 (e) (1) ~~The provisions of this subsection apply only in Baltimore City.~~

27 (2) ~~A person who violates this section may be charged by a citation.~~

28 (3) ~~A citation for a violation of this section may be issued to a person~~
29 ~~by a police officer authorized to make arrests in Baltimore City if there is probable~~
30 ~~cause to believe that the person is committing or has committed a violation of this~~
31 ~~section.~~

- 1 ~~(4) A citation issued under this subsection shall contain:~~
- 2 ~~(i) the name and address of the person charged;~~
- 3 ~~(ii) the statute allegedly violated;~~
- 4 ~~(iii) the location, date, and time that the violation occurred;~~
- 5 ~~(iv) the fine or term of imprisonment that may be imposed;~~
- 6 ~~(v) a notice stating that prepayment of a fine is not allowed;~~
- 7 ~~(vi) a notice that the court shall promptly send the person~~
8 ~~charged a summons to appear for trial; and~~
- 9 ~~(vii) the signature of the police officer issuing the citation.~~
- 10 ~~(5) (i) The police officer who issued the citation shall forward to the~~
11 ~~appropriate court a copy of the citation.~~
- 12 ~~(ii) The court shall promptly schedule the case for trial and~~
13 ~~summon the defendant to appear.~~
- 14 ~~(iii) Willful failure of the defendant to respond to the summons is~~
15 ~~contempt of court.~~
- 16 ~~12-104.~~
- 17 ~~(a) A person may not:~~
- 18 ~~(1) keep a gaming device, or all or a part of a building, vessel, or place,~~
19 ~~on land or water within the State for the purpose of gambling;~~
- 20 ~~(2) own, rent, or occupy all or a part of a building, vessel, or place and~~
21 ~~knowingly allow a gaming device to be kept in the building, vessel, or place;~~
- 22 ~~(3) lease or rent all or a part of a building, vessel, or place to be used~~
23 ~~for the purpose of gambling;~~
- 24 ~~(4) deal at a gaming device or in a building, vessel, or place for~~
25 ~~gambling;~~
- 26 ~~(5) manage a gaming device or a building, vessel, or place for~~
27 ~~gambling; or~~
- 28 ~~(6) have an interest in a gaming device or the profits of a gaming~~
29 ~~device.~~

1 ~~(b) A person who violates this section is guilty of a misdemeanor and on~~
2 ~~conviction is subject to imprisonment for not less than 6 months and not exceeding 1~~
3 ~~year or a fine not exceeding \$500 or both.~~

4 ~~12-108.1.~~

5 ~~(A) (1) IN THIS SECTION, "ELECTRONIC GAMING DEVICE" MEANS AN~~
6 ~~ELECTRONIC SLOT MACHINE, VIDEO POKER MACHINE, ELECTRONIC BINGO~~
7 ~~MACHINE, ELECTRONIC PULL TAB MACHINE, OR SIMILAR ELECTRONIC MACHINE~~
8 ~~THAT:~~

9 ~~(I) ON INSERTION OF A COIN, TOKEN, OR SIMILAR OBJECT~~
10 ~~OR ON PAYMENT OF ANY CONSIDERATION, IS AVAILABLE TO BE PLAYED; AND~~

11 ~~(II) BY THE SKILL OF THE PLAYER, THE APPLICATION OF~~
12 ~~THE ELEMENT OF CHANCE, OR BY ANY OTHER METHOD, MAY DELIVER OR~~
13 ~~ENTITLE THE PLAYER TO RECEIVE CASH, PREMIUMS, MERCHANDISE, TOKENS,~~
14 ~~PAPER RECEIPTS REDEEMABLE FOR CASH, OR ANYTHING ELSE OF VALUE.~~

15 ~~(2) "ELECTRONIC GAMING DEVICE" INCLUDES AN ELECTRONIC~~
16 ~~MACHINE THAT:~~

17 ~~(I) DISPENSES TICKETS VERIFYING THE NUMBER OF~~
18 ~~POINTS OR CREDITS THAT THE PLAYER HAS ACCUMULATED WHILE PLAYING~~
19 ~~AND THAT MAY BE REDEEMED FOR CASH OR MERCHANDISE; AND~~

20 ~~(II) IS EQUIPPED WITH A KNOCK-OFF SWITCH OR SIMILAR~~
21 ~~DEVICE THAT RELEASES FREE GAMES OR CREDITS ACCUMULATED TOWARD THE~~
22 ~~AWARD OF CASH OR MERCHANDISE AND RESETS THE POINT OR CREDIT TOTAL~~
23 ~~TO ZERO.~~

24 ~~(3) IF LEGISLATION IS ENACTED AUTHORIZING COMMERCIAL~~
25 ~~VIDEO LOTTERY GAMING IN THE STATE, "ELECTRONIC GAMING DEVICE" DOES~~
26 ~~NOT INCLUDE A VIDEO LOTTERY TERMINAL AS DEFINED IN § 9-1A-01 OF THE~~
27 ~~STATE GOVERNMENT ARTICLE.~~

28 ~~(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
29 ~~SUBSECTION, A PERSON MAY NOT PURCHASE, LEASE, SELL, TRANSFER,~~
30 ~~REPLACE, LICENSE, OR OPERATE AN ELECTRONIC GAMING DEVICE IN THE~~
31 ~~STATE.~~

32 ~~(2) IF A PERSON HAS CONTINUOUSLY OPERATED AN ELECTRONIC~~
33 ~~GAMING DEVICE AS AN OWNER, LESSOR, LESSEE, LICENSOR, LICENSEE, OR IN~~
34 ~~ANY OTHER CAPACITY BEGINNING:~~

~~(I) BEFORE JULY 1, 1998, THE PERSON MAY CONTINUE TO OPERATE AN ELECTRONIC GAMING DEVICE THROUGH THE END OF JUNE 30, 2009;~~

~~(II) ON OR AFTER JULY 1, 1998, BUT BEFORE JULY 1, 2003, THE PERSON MAY CONTINUE TO OPERATE AN ELECTRONIC GAMING DEVICE THROUGH THE END OF DECEMBER 31, 2008; AND~~

~~(III) ON OR AFTER JULY 1, 2003, BUT BEFORE MARCH 1, 2008, THE PERSON MAY CONTINUE TO OPERATE AN ELECTRONIC GAMING DEVICE THROUGH THE END OF JUNE 30, 2008.~~

~~(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:~~

~~(1) IF THE PERSON IS AN INDIVIDUAL, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE OF \$1,000 OR BOTH FOR EACH VIOLATION; OR~~

~~(2) IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING \$1,000 OR LOSS OF PRIVILEGES TO CONDUCT A GAMING EVENT NOT EXCEEDING 60 DAYS OR BOTH FOR EACH VIOLATION.~~

~~12-111.~~

~~If a law enforcement officer has a reason to suspect a gaming device is kept unlawfully at a place, the law enforcement officer shall:~~

~~(1) visit the place; and~~

~~(2) charge all persons who violate a law that prohibits gambling.~~

~~12-301.~~

In this subtitle:

(1) "slot machine" means a machine, apparatus, or device that:

(i) operates or can be made to operate by inserting, depositing, or placing with another person money, a token, or another object; and

(ii) through 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, awards the user:

1. money, a token, or other object that represents or that can be converted into money; or

1 (V) IS USED BY THE STATE LOTTERY COMMISSION UNDER
 2 TITLE 9 OF THE STATE GOVERNMENT ARTICLE; OR

3 (VI) IF LEGISLATION TAKES EFFECT AUTHORIZING THE
 4 OPERATION OF VIDEO LOTTERY TERMINALS, A VIDEO LOTTERY TERMINAL AS
 5 DEFINED IN AND LICENSED UNDER THAT LEGISLATION.

6 12-302.

7 (a) Except as allowed under §§ 12-304 through 12-306 of this subtitle, a
 8 person may not locate, possess, keep, or operate a slot machine in the State as an
 9 owner, lessor, lessee, licensor, licensee, or in any other capacity.

10 (b) A person who violates this section is guilty of a misdemeanor and on
 11 conviction is subject to imprisonment not exceeding 1 year or a fine of \$1,000 or both
 12 for each violation.

13 ~~12-304.~~

14 ~~(e) (1) In this subsection, a console or set of affixed slot machines is not~~
 15 ~~an individual slot machine.~~

16 ~~(2) [Notwithstanding] SUBJECT TO § 12-108.1 OF THIS TITLE BUT~~
 17 ~~NOTWITHSTANDING any other provision of this subtitle, an eligible organization may~~
 18 ~~own and operate a slot machine if the eligible organization:~~

19 ~~(i) obtains a license under subsection (c) of this section for each~~
 20 ~~slot machine;~~

21 ~~(ii) owns each slot machine that the eligible organization~~
 22 ~~operates;~~

23 ~~(iii) owns not more than five slot machines;~~

24 ~~(iv) locates and operates its slot machines at its principal~~
 25 ~~meeting hall in the county in which the eligible organization is located;~~

26 ~~(v) does not locate or operate its slot machines in a private~~
 27 ~~commercial facility;~~

28 ~~(vi) uses:~~

29 ~~1. at least one half of the proceeds from its slot~~
 30 ~~machines for the benefit of a charity; and~~

31 ~~2. the remainder of the proceeds from its slot machines~~
 32 ~~to further the purposes of the eligible organization;~~

1 (vii) ~~does not use any of the proceeds of the slot machine for the~~
2 ~~financial benefit of an individual; and~~

3 (viii) ~~reports annually under affidavit to the State Comptroller:~~

4 1. ~~the income of each slot machine; and~~

5 2. ~~the disposition of the income from each slot machine.~~

6 ~~13-101.~~

7 (A) ~~[Activities] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B)~~
8 ~~OF THIS SECTION, ACTIVITIES~~ conducted under this title are allowed
9 notwithstanding the provisions of Title 12, Subtitles 1 and 2 of this article.

10 (B) ~~THE OPERATION OF AN ELECTRONIC GAMING DEVICE IN ANY~~
11 ~~ACTIVITY CONDUCTED UNDER THIS TITLE IS SUBJECT TO § 12-108.1 OF THIS~~
12 ~~ARTICLE.~~

13 ~~13-203.~~

14 This title and Title 12 of this article do not prohibit a qualified organization
15 from conducting a gaming event for the exclusive benefit of a qualified organization if
16 an individual or group of individuals does not:

17 (1) ~~benefit financially from the gaming event under this subtitle; or~~

18 (2) ~~receive any of the proceeds from the gaming event under this~~
19 ~~subtitle for personal use or benefit.~~

20 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the
21 provisions of Section 1 of this Act, an entity licensed to offer instant bingo may
22 continue to operate a game of instant bingo in the same manner using electronic
23 machines until January 1, 2009, provided that:

24 (a) the machines have been in operation for a 1-year period ending
25 December 31, 2007;

26 (b) the machines operate using preprinted rolls of paper pull tab tickets that
27 issue pull tab tickets in a predetermined order; and

28 (c) the conduct of the gaming and operation of the machines is consistent
29 with all other provisions of the Criminal Law Article and with the holding in the case
30 of Chesapeake Amusements Inc. v. Riddle, 363 Md. 16 (2001).

1 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any
2 other provision of law, if any action is brought for declaratory, injunctive, or other
3 relief to challenge the legality of any provision of this Act or any amendment made by
4 this Act, the enforcement and implementation of this Act may not be stayed pending
5 the disposition of the action.

6 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act is an
7 emergency measure, is necessary for the immediate preservation of the public health
8 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
9 members elected to each of the two Houses of the General Assembly, and shall take
10 effect from the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.