

HOUSE BILL 193

C7

(9lr1555)

ENROLLED BILL

—Ways and Means / Budget and Taxation—

Introduced by **Delegates Love and Kullen**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Gaming - ~~Instant Bingo~~ - ~~Extension of Sunset~~**

3 FOR the purpose of *altering the distribution of revenue from a certain State tax in a*
4 *certain manner; creating the Special Fund for Preservation of Cultural Arts in*
5 *Maryland; providing for the purpose and administration of the Fund; specifying*
6 *that the Fund is a special, nonlapsing fund; requiring that the State Treasurer*
7 *hold the Fund separately and the Comptroller account for the Fund; specifying*
8 *the contents of the Fund; specifying that the Fund may be used only for a certain*
9 *purpose; authorizing the Governor, for each appropriation to the Fund, to*
10 *include funds in the State budget subject to appropriation by the General*
11 *Assembly or transfer the funds by budget amendment from the Fund under*
12 *certain circumstances; specifying that money expended from the Fund for*
13 *cultural arts organizations or other similar entities is supplemental and not*
14 *intended to take the place of certain other funding; altering the rate of the State*
15 *admissions and amusement tax on electronic bingo and electronic tip jars;*

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.

Italics indicate opposite chamber / conference committee amendments.



1 limiting the rate of the State admissions and amusement tax in a certain manner
 2 under certain circumstances; limiting the rate of a county or municipal
 3 corporation admissions and amusement tax that is applicable to electronic bingo
 4 or electronic tip jars under certain circumstances; prohibiting a county from
 5 imposing a certain fee or tax under certain circumstances on or before a certain
 6 date; extending the termination date for the authority for the operation of
 7 certain instant bingo games using electronic machines; altering a certain
 8 condition on certain authority for certain persons to continue to operate certain
 9 games in a certain manner; establishing that a certain action may be brought
 10 only in a certain circuit court; establishing that the enforcement and
 11 implementation of this Act may not be stayed under certain circumstances;
 12 expressing the intent of the General Assembly regarding the proliferation of
 13 certain gaming machines; ~~repealing a certain obsolete requirement;~~ and
 14 generally relating to electronic bingo and instant bingo operations.

15 BY repealing and reenacting, without amendments,
 16 Article – Criminal Law
 17 Section 12–301
 18 Annotated Code of Maryland
 19 (2002 Volume and 2008 Supplement)

20 BY adding to
 21 Article – Economic Development
 22 Section 4–801 to be under the new subtitle “Subtitle 8. Special Fund for
 23 Preservation of Cultural Arts in Maryland”
 24 Annotated Code of Maryland
 25 (2008 Volume)

26 BY repealing and reenacting, with amendments,
 27 Article – Tax – General
 28 Section 2–202 and 4–105(a–1)
 29 Annotated Code of Maryland
 30 (2004 Volume and 2008 Supplement)

31 BY repealing and reenacting, without amendments,
 32 Article – Tax – General
 33 Section 4–102(d) and 4–105(a)
 34 Annotated Code of Maryland
 35 (2004 Volume and 2008 Supplement)

36 BY repealing and reenacting, with amendments,
 37 Chapter 474 of the Acts of the General Assembly of 2008
 38 Section 2

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

Article – Criminal Law

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

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

2. the right to receive money, a token, or another object that represents and can be converted into money;

(2) “slot machine” includes:

(i) a machine, apparatus, or device described in item (1) of this section that also sells, delivers, or awards merchandise, money, or some other tangible thing of value; and

(ii) a pinball machine or console machine that pays off in merchandise; and

(3) “slot machine” does not include a machine, apparatus, or device that:

(i) awards the user only free additional games or plays;

(ii) awards the user only noncash merchandise or noncash prizes of minimal value;

(iii) dispenses paper pull tab tip jar tickets or paper pull tab instant bingo tickets that must be opened manually by the user provided that the machine, apparatus, or device does not:

1. read the tickets electronically;

2. alert the user to a winning or losing ticket; or

3. tabulate a player’s winnings and losses;

1 (iv) 1. displays facsimiles of bingo cards that users mark and
 2 monitor according to numbers called on the premises by an individual where the user
 3 is operating the machine; and

4 2. does not permit a user to play more than 54 bingo
 5 cards at the same time;

6 (v) is used by the State Lottery Commission under Title 9 of the
 7 State Government Article; or

8 (vi) if legislation takes effect authorizing the operation of video
 9 lottery terminals, is a video lottery terminal as defined in and licensed under that
 10 legislation.

11 **Article – Economic Development**

12 **SUBTITLE 8. SPECIAL FUND FOR PRESERVATION OF CULTURAL ARTS IN**
 13 **MARYLAND.**

14 **4-801.**

15 **(A) IN THIS SECTION, “FUND” MEANS THE SPECIAL FUND FOR**
 16 **PRESERVATION OF CULTURAL ARTS IN MARYLAND.**

17 **(B) THERE IS A SPECIAL FUND FOR PRESERVATION OF CULTURAL**
 18 **ARTS IN MARYLAND.**

19 **(C) THE PURPOSE OF THE FUND IS TO PROVIDE EMERGENCY GRANTS TO**
 20 **CULTURAL ARTS ORGANIZATIONS, INCLUDING MUSEUMS, OR SIMILAR ENTITIES**
 21 **IN THE STATE.**

22 **(D) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT**
 23 **SHALL ADMINISTER THE FUND.**

24 **(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
 25 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

26 **(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,**
 27 **AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

28 **(F) THE FUND CONSISTS OF:**

29 **(1) REVENUE DISTRIBUTED TO THE FUND UNDER ~~§ 2-202(A)(1)(I)~~**
 30 **§ 2-202(1)(II) OF THE TAX – GENERAL ARTICLE; AND**

1 (I) THE REVENUE ATTRIBUTABLE TO A TAX RATE OF 20% to
 2 the General Fund of the State; and

3 (II) THE REVENUE ATTRIBUTABLE TO A TAX RATE IN EXCESS
 4 OF 20% TO THE SPECIAL FUND FOR PRESERVATION OF CULTURAL ARTS IN
 5 MARYLAND, AS PROVIDED IN § 4-801 OF THE ECONOMIC DEVELOPMENT
 6 ARTICLE; AND

7 (2) the remaining admissions and amusement tax revenue:

8 (i) to the Maryland Stadium Authority, county, or municipal
 9 corporation that is the source of the revenue; or

10 (ii) if the Maryland Stadium Authority and also a county or
 11 municipal corporation tax a reduced charge or free admission:

12 1. 80% of that revenue to the Authority; and

13 2. 20% to the county or municipal corporation.

14 4-102.

15 (d) (1) In this subsection, "net proceeds" means the total receipts from the
 16 operation of an electronic bingo machine or electronic tip jar machine less the amount
 17 of money winnings or prizes paid out to players.

18 (2) A State tax is imposed on the net proceeds derived from any charge
 19 for the operation of an electronic bingo machine permitted under a commercial bingo
 20 license or an electronic tip jar machine authorized under Title 13 of the Criminal Law
 21 Article that is operated for commercial purposes.

22 4-105.

23 (a) Except as otherwise provided in this section, the admissions and
 24 amusement tax rate is:

25 (1) the rate that a county or municipal corporation sets, not exceeding
 26 10% of gross receipts subject to the admissions and amusement tax; or

27 (2) the rate that the Stadium Authority sets, not exceeding 8% of gross
 28 receipts subject to the admissions and amusement tax.

29 (a-1) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
 30 SUBSECTION, THE rate of the State admissions and amusement tax imposed on

1 electronic bingo or electronic tip jars under § 4-102(d) of this subtitle is [20%] 30% of
2 the net proceeds subject to the tax.

3 **(2) IF NET PROCEEDS SUBJECT TO THE STATE ADMISSIONS AND**
4 **AMUSEMENT TAX IMPOSED ON ELECTRONIC BINGO OR ELECTRONIC TIP JARS**
5 **UNDER § 4-102(D) OF THIS SUBTITLE ARE ALSO SUBJECT TO AN ADMISSIONS**
6 **AND AMUSEMENT TAX IMPOSED BY A COUNTY OR A MUNICIPAL CORPORATION**
7 **UNDER THIS SUBTITLE:**

8 **(I) THE RATE OF THE STATE TAX MAY NOT EXCEED A RATE**
9 **THAT, WHEN COMBINED WITH THE RATE OF ANY COUNTY OR MUNICIPAL**
10 **CORPORATION TAX, WILL EXCEED 35% OF THE NET PROCEEDS; AND**

11 **(II) THE RATE OF ANY COUNTY OR MUNICIPAL**
12 **CORPORATION ADMISSIONS AND AMUSEMENT TAX THAT IS APPLICABLE TO NET**
13 **PROCEEDS DERIVED FROM ELECTRONIC BINGO OR ELECTRONIC TIP JARS MAY**
14 **NOT EXCEED THE RATE OF THE ADMISSIONS AND AMUSEMENT TAX IMPOSED BY**
15 **THE COUNTY OR MUNICIPAL CORPORATION AS OF JANUARY 1, 2009.**

16 Chapter 474 of the Acts of 2008

17 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the
18 provisions of Section 1 of this Act, an entity licensed to offer instant bingo under a
19 commercial bingo license as of July 1, 2007, or by a qualified organization as defined in
20 § 13-201 of this article on the premises of the qualified organization may continue to
21 operate a game of instant bingo in the same manner using electronic machines until
22 July 1, [2009] ~~2011~~ 2012, provided that:

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

25 **(2) THE MACHINES WERE IN OPERATION UNDER A COMMERCIAL**
26 **BINGO LICENSE AS OF DECEMBER 31, 2007;**

27 (b) ~~the~~ entity does not operate more than the number of electronic machines
28 operated as of February 28, 2008; and

29 ~~(c)~~ ~~(b)~~ the conduct of the gaming and operation of the machines is
30 consistent with all other provisions of the Criminal Law Article.

31 **SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1,**
32 **2012, a county may not impose a fee or tax on electronic bingo in addition to any tax or**
33 **fee imposed by the county as of January 1, 2009.**

1 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any
 2 other law, an action for declaratory, injunctive, or other relief to challenge the legality
 3 of any provision of this Act or any amendment made by this Act:

4 (1) may be brought only in the circuit court for Anne Arundel County;
 5 and

6 (2) does not stay the enforcement and implementation of this Act
 7 pending the disposition of the action.

8 SECTION 4. AND BE IT FURTHER ENACTED, That, notwithstanding any
 9 provision of this Act, it is the intent of the General Assembly that the proliferation of
 10 gaming in the State be reduced by limiting the use of gaming machines that are similar
 11 in appearance and operation to video lottery terminals and that, in authorizing the
 12 temporary continuation of gaming activity with such machines by commercial and
 13 charitable entities that have operated such machines over a long period of time, this Act
 14 be construed not as approval of an expansion of such gaming, but as enacting a
 15 mechanism to provide additional funding required to address the State's important
 16 fiscal needs on a temporary basis while the State video lottery terminal program is
 17 being implemented.

18 SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take
 19 effect June 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.