

HOUSE BILL 1557

P1

9lr0033

By: **Chair, Health and Government Operations Committee and Chair, Ways and Means Committee**

Rules suspended

Introduced and read first time: March 10, 2009

Assigned to: Rules and Executive Nominations

Re-referred to: Health and Government Operations and Ways and Means, March 16, 2009

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: April 2, 2009

CHAPTER _____

1 AN ACT concerning

2 **State Lottery – Procurement – Licensing Agreements and Prizes**

3 FOR the purpose of exempting from a certain State procurement law certain licensing
4 agreements entered into by the State Lottery Agency and procurement for State
5 lottery prizes; requiring the Director of the State Lottery Agency to enter into
6 certain licensing agreements and contract for certain items or services related
7 to lottery prizes; defining a certain term; and generally relating to the
8 procurement authority of the State Lottery Agency.

9 BY renumbering

10 Article – State Finance and Procurement
11 Section 11–101(j) through (x), respectively
12 to be Section 11–101(k) through (y), respectively
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2008 Supplement)

15 BY renumbering

16 Article – State Government
17 Section 9–101(f) through (h), respectively
18 to be Section 9–101(g) through (i), respectively
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2008 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 adding to
 2 Article – State Finance and Procurement
 3 Section 11–101(j)
 4 Annotated Code of Maryland
 5 (2006 Replacement Volume and 2008 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article – State Finance and Procurement
 8 Section 11–203(a)
 9 Annotated Code of Maryland
 10 (2006 Replacement Volume and 2008 Supplement)

11 BY adding to
 12 Article – State Government
 13 Section 9–101(f)
 14 Annotated Code of Maryland
 15 (2004 Replacement Volume and 2008 Supplement)

16 BY repealing and reenacting, with amendments,
 17 Article – State Government
 18 Section 9–111(a)
 19 Annotated Code of Maryland
 20 (2004 Replacement Volume and 2008 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 22 MARYLAND, That Section(s) 11–101(j) through (x), respectively, of Article – State
 23 Finance and Procurement of the Annotated Code of Maryland be renumbered to be
 24 Section(s) 11–101(k) through (y), respectively.

25 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 9–101(f)
 26 through (h), respectively, of Article – State Government of the Annotated Code of
 27 Maryland be renumbered to be Section(s) 9–101(g) through (i), respectively.

28 ~~SECTION 1. 3. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~
 29 ~~MARYLAND AND BE IT FURTHER ENACTED, That the Laws of Maryland read as~~
 30 ~~follows:~~

31 **Article – State Finance and Procurement**

32 11–101.

33 **(J) “INTELLECTUAL PROPERTY” MEANS A TRADEMARK, SERVICE MARK,**
 34 **TRADE NAME, LABEL, TERM, DEVICE, DESIGN, OR WORD ADOPTED OR USED BY A**
 35 **PERSON TO IDENTIFY THE GOODS OR SERVICES OF THE PERSON.**

36 11–203.

1 (a) Except as provided in subsection (b) of this section, this Division II does
2 not apply to:

3 (1) procurement by:

4 (i) the Blind Industries and Services of Maryland;

5 (ii) the Maryland State Arts Council, for the support of the arts;

6 (iii) the Maryland Health and Higher Educational Facilities
7 Authority, if no State money is to be spent on a procurement contract;

8 (iv) the Maryland Industrial Training Program or the
9 Partnership for Workforce Quality Program in the Department of Business and
10 Economic Development, for training services or programs for new or expanding
11 businesses or industries or businesses or industries in transition;

12 (v) the Maryland Food Center Authority, to the extent the
13 Authority is exempt under Title 10, Subtitle 2 of the Economic Development Article;

14 (vi) the Maryland Public Broadcasting Commission:

15 1. for services of artists for educational and cultural
16 television productions; or

17 2. when planning for or fulfilling the obligations of
18 grants or cooperative agreements that support the educational and cultural activities
19 of the Commission;

20 (vii) public institutions of higher education, for cultural,
21 entertainment, and intercollegiate athletic procurement contracts;

22 (viii) the Maryland State Planning Council on Developmental
23 Disabilities, for services to support demonstration, pilot, and training programs;

24 (ix) the Maryland Automobile Insurance Fund;

25 (x) the Maryland Historical Trust for:

26 1. surveying and evaluating architecturally,
27 archeologically, historically, or culturally significant properties; and

28 2. other than as to architectural services, preparing
29 historic preservation planning documents and educational material;

30 (xi) the University of Maryland, for University College Overseas
31 Programs, if the University adopts regulations that:

1 1. establish policies and procedures governing
2 procurement for University College Overseas Programs; and

3 2. promote the purposes stated in § 11-201(a) of this
4 subtitle;

5 (xii) the Department of Business and Economic Development, for
6 negotiating and entering into private sector cooperative marketing projects that
7 directly enhance promotion of Maryland and the tourism industry where there will be
8 a private sector contribution to the project if not less than 50% of the total cost of the
9 project, if the project is reviewed by the Attorney General and approved by the
10 Secretary of Business and Economic Development or the Secretary's designee;

11 (xiii) the Rural Maryland Council;

12 (xiv) the Maryland State Lottery Agency, for:

13 1. negotiating and entering into private sector
14 cooperative marketing projects that directly enhance promotion of the Maryland State
15 Lottery and its products, if the cooperative marketing project:

16 [1.] **A.** provides a substantive promotional or
17 marketing value that the lottery determines acceptable in exchange for advertising or
18 other promotional activities provided by the lottery;

19 [2.] **B.** does not involve the advertising or other
20 promotion of alcohol or tobacco products; and

21 [3.] **C.** is reviewed by the Attorney General and
22 approved by the Maryland Lottery Director or the Director's designee; **OR**

23 **2. LICENSING AGREEMENTS FOR THE USE OF**
24 **INTELLECTUAL PROPERTY THAT WILL BE USED WITH LOTTERY PRODUCTS;**

25 (xv) the Maryland Health Insurance Plan established under Title
26 14, Subtitle 5 of the Insurance Article;

27 (xvi) the Maryland Energy Administration, when negotiating or
28 entering into grants or cooperative agreements with private entities to meet federal
29 specifications or solicitation requirements related to energy conservation, energy
30 efficiency, or renewable energy projects that benefit the State; and

31 (xvii) the Maryland Developmental Disabilities Administration of
32 the Department of Health and Mental Hygiene for family and individual support
33 services, and individual family care services, as those terms are defined by the
34 Department of Health and Mental Hygiene in regulation;

1 (4) advise the Commission about any change needed to improve the
2 operation or administration of the State lottery;

3 (5) with the approval of the Commission and subject to Division II of
4 the State Finance and Procurement Article, contract for:

5 (i) the operation of all or any part of the State lottery; and

6 (ii) the use of space, for advertising or promotional purposes, on
7 tickets or publications distributed by the Agency, if, in the Director's discretion, the
8 action is fiscally prudent and in the best interest of the State lottery;

9 (6) submit monthly to the Comptroller and to the Commission a
10 certified statement of the total State lottery revenues and the total prize
11 disbursements and other expenses for the preceding month; and

12 (7) with the approval of the Commission, [contract for the promotion
13 of the State lottery and enter into private sector cooperative marketing project
14 agreements] **AND** as provided for in § 11-203(a)(1)(xiv) of the State Finance and
15 Procurement Article:

16 (I) **CONTRACT FOR THE PROMOTION OF THE STATE**
17 **LOTTERY AND ENTER INTO PRIVATE SECTOR COOPERATIVE MARKETING**
18 **PROJECT AGREEMENTS;**

19 (II) **ENTER INTO A LICENSING AGREEMENT FOR THE USE OF**
20 **INTELLECTUAL PROPERTY THAT WILL BE USED WITH LOTTERY PRODUCTS; AND**

21 (III) **CONTRACT FOR ANY ITEM OR SERVICE THAT WILL BE**
22 **USED AS A LOTTERY PRIZE FOR ANY ONLINE OR INSTANT TICKET LOTTERY**
23 **PRODUCT.**

24 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
25 effect July 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.