

CHAPTER 661

(House Bill 193)

AN ACT concerning

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

FOR the purpose of altering the distribution of revenue from a certain State tax in a certain manner; creating the Special Fund for Preservation of Cultural Arts in Maryland; providing for the purpose and administration of the Fund; specifying that the Fund is a special, nonlapsing fund; requiring that the State Treasurer hold the Fund separately and the Comptroller account for the Fund; specifying the contents of the Fund; specifying that the Fund may be used only for a certain purpose; authorizing the Governor, for each appropriation to the Fund, to include funds in the State budget subject to appropriation by the General Assembly or transfer the funds by budget amendment from the Fund under certain circumstances; specifying that money expended from the Fund for cultural arts organizations or other similar entities is supplemental and not intended to take the place of certain other funding; altering the rate of the State admissions and amusement tax on electronic bingo and electronic tip jars; limiting the rate of the State admissions and amusement tax in a certain manner under certain circumstances; limiting the rate of a county or municipal corporation admissions and amusement tax that is applicable to electronic bingo or electronic tip jars under certain circumstances; prohibiting a county from imposing a certain fee or tax under certain circumstances on or before a certain date; extending the termination date for the authority for the operation of certain instant bingo games using electronic machines; altering a certain condition on certain authority for certain persons to continue to operate certain games in a certain manner; establishing that a certain action may be brought only in a certain circuit court; establishing that the enforcement and implementation of this Act may not be stayed under certain circumstances; expressing the intent of the General Assembly regarding the proliferation of certain gaming machines; ~~repealing a certain obsolete requirement;~~ and generally relating to electronic bingo and instant bingo operations.

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

BY adding to
Article – Economic Development

Section 4-801 to be under the new subtitle "Subtitle 8. Special Fund for Preservation of Cultural Arts in Maryland"
Annotated Code of Maryland
(2008 Volume)

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

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

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

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

Article – Criminal Law

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;

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

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

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

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

Article – Economic Development

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

4-801.

(A) IN THIS SECTION, "FUND" MEANS THE SPECIAL FUND FOR PRESERVATION OF CULTURAL ARTS IN MARYLAND.

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

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

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

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

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

(F) THE FUND CONSISTS OF:

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

(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY FOR PREVENTING THE CLOSURE OR TERMINATION OF CULTURAL ARTS ORGANIZATIONS, INCLUDING MUSEUMS, OR SIMILAR ENTITIES IN THE STATE.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.

(I) FOR EACH APPROPRIATION TO THE FUND, THE GOVERNOR MAY:

(1) INCLUDE THE FUNDS IN THE STATE BUDGET SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY; OR

(2) TRANSFER THE FUNDS BY BUDGET AMENDMENT FROM THE FUND TO THE EXPENDITURE ACCOUNT OF THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT ONLY AFTER THE PROPOSED BUDGET AMENDMENT HAS BEEN:

(I) SUBMITTED TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE APPROPRIATIONS COMMITTEE OF THE GENERAL ASSEMBLY; AND

(II) APPROVED BY THE LEGISLATIVE POLICY COMMITTEE.

(J) MONEY EXPENDED FROM THE FUND FOR CULTURAL ARTS ORGANIZATIONS, INCLUDING MUSEUMS, OR OTHER SIMILAR ENTITIES IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THOSE ORGANIZATIONS OR SIMILAR ENTITIES.

Article – Tax – General

2-202.

After making the distribution required under § 2-201 of this subtitle, within 20 days after the end of each quarter, the Comptroller shall distribute:

(1) FROM the revenue from the State admissions and amusement tax on electronic bingo and electronic tip jars under § 4-102(d) of this article:

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

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

(2) the remaining admissions and amusement tax revenue:

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

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

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

2. 20% to the county or municipal corporation.

4-102.

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

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

4-105.

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

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

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

(a-1) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE rate of the State admissions and amusement tax imposed on electronic bingo or electronic tip jars under § 4-102(d) of this subtitle is [20%] 30% of the net proceeds subject to the tax.

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

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

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

Chapter 474 of the Acts of 2008

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 19, 2009.