

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 919

(Senator Edwards)

Budget and Taxation

Allegany County - Slot Machines for Nonprofit Organizations - Volunteer Fire Departments

This bill adds Allegany County to the list of eight counties in which eligible nonprofit fraternal, religious, and war veterans' organizations may own and operate up to five slot machines at its principal meeting hall. The bill also adds a volunteer fire department to the list of eligible organizations, in Allegany County only. At least one-half of the proceeds must go to charity and the remainder to further the organizations' purposes.

Fiscal Summary

State Effect: Potential decrease in special fund revenues and expenditures from the Video Lottery Terminal Program once an Allegany County facility is operational. No material impact on lottery revenues.

Local Effect: Minimal increase in Allegany County revenues from annual slot machine license fees. Allegany County local tax and licensing revenues from paper gaming may decrease.

Small Business Effect: None.

Analysis

Bill Summary: In order to operate a slot machine, an eligible organization must obtain a license from the Allegany County Sheriff's Office and pay a fee of \$50 per machine annually to the county. An organization may not own more than five slot machines and must own each slot machine in operation. The slot machines must be located at the principal meeting hall of the organization and cannot be operated at a private commercial facility. The slot machine must be equipped with a tamperproof meter or counter that accurately records gross receipts.

At least one-half of the proceeds generated from slot machines must go to charity. The remainder of the proceeds must go to the organization. An individual cannot benefit financially from the proceeds. The organization must keep accurate records of gross receipts and payouts from slot machines and must report annually under affidavit to the Comptroller's Office the income from each slot machine and the disposition of these proceeds. The Comptroller's Office, however, does not have authority to audit these reports.

Current Law: Generally, it is a misdemeanor crime to possess or operate a slot machine in Maryland. However, legislation was enacted in 1987 and 2007 authorizing certain nonprofit organizations to operate slot machines in the following eight Eastern Shore counties: Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, and Wicomico. The 1987 legislation required a nonprofit organization to be located in the county for at least five years prior to the application for a license and to be a fraternal, religious, or war veterans' organization.

Chapter 645 of 2007 expanded the list of eligible organizations that may be licensed to operate slot machines to include those that have been affiliated with a national fraternal organization for less than 5 years but have been located within an eligible county for at least 50 years before applying for a license.

During the 2007 special session, the General Assembly adopted two pieces of legislation pertaining to video lottery terminal (VLT) gambling – Chapter 4 (Senate Bill 3) and Chapter 5 (House Bill 4). Chapter 5 was a constitutional amendment approved by the voters at the November 2008 general election that authorized the expansion of gambling subject to specified restrictions. The constitutional amendment provided that (1) a maximum of five VLT facility licenses may be awarded within specified areas of the State; (2) no more than one facility license may be awarded in any county or Baltimore City; (3) a maximum of 15,000 VLTs may be authorized; and (4) VLT facilities must comply with any applicable planning and zoning laws of a local jurisdiction.

Chapter 4, which was contingent on ratification of Chapter 5, established the operational and regulatory framework for the VLT program. Under Chapter 4, VLT facility operation licenses are awarded by a Video Lottery Facility Location Commission (Location Commission). The State Lottery Commission will oversee VLT operations and will own/lease the VLTs and a central monitor and control system. Chapter 4 allows for a maximum of 15,000 machines, distributed as follows: 4,750 VLTs in Anne Arundel County; 3,750 VLTs in Baltimore City; 2,500 VLTs in Worcester County; 2,500 VLTs in Cecil County; and 1,500 VLTs in Allegany County. In addition, geographic parameters for each jurisdiction within which a VLT facility may be located are provided. The

Location Commission may alter VLT allocations if warranted by an evaluation of market and other factors; however, no more than 4,750 VLTs may be placed at any one location.

Background: In fiscal 2008, 52 nonprofit organizations on the Eastern Shore operated slot machines. These organizations donated approximately \$3.6 million to charity. Unaudited reports with complete data were available for 50 of the organizations. The total amount bet at these 50 organizations was approximately \$52 million, 87% of which was returned to gamblers. Of the approximately \$6.6 million in net proceeds, \$3.3 million (51%) was disbursed to charity. The Department of Legislative Services (DLS) notes that in reviewing the fiscal 2008 data, it appeared that several organizations were not in compliance with the 50% charity requirement or misclassified some contributions as charitable. Several organizations submitted returns that were incomplete or mathematically incorrect.

The Maryland State Lottery Agency conducted a study of local gaming in Maryland required by Chapter 474 of 2008. The report indicates (similar to DLS findings) that in fiscal 2008, 273 slot machines on the Eastern Shore generated \$54.8 million in total “handle” or bets. However, the report shows no reliable or consistent relationship between the current presence of slot machines and lottery sales. **Exhibit 1** shows the slot machine handle by county.

Exhibit 1
Slot Machine Handle for Eastern Shore Counties
Fiscal 2008
(\$ in Millions)

<u>County</u>	<u>Slot Machines</u>	<u>Handle*</u>
Caroline	20	\$2.4
Cecil	55	14.9
Dorchester	30	4.5
Kent	25	1.5
Queen Anne’s	30	6.3
Somerset	24	2.5
Talbot	30	4.6
Wicomico	59	18.0
Total	273	\$54.8

*Numbers may not sum to the total due to rounding.
Source: Maryland State Lottery Agency

VLT Program Implementation

The Location Commission has awarded three video lottery operation licenses to date. PPE Casino Resorts Maryland, LLC (PPE Casino Resorts) was awarded a license to operate a 4,750 VLT facility in Hanover in Anne Arundel County, contingent upon local zoning approval. Anne Arundel County Council approved favorable zoning legislation on December 21, 2009, which the county executive signed into law on December 22, 2009. The law has not gone into effect pending certification of a petition to require local voter approval of the law at the November 2010 election. PPE Casino Resorts expects to open a permanent facility adjacent to Arundel Mills Mall with 4,750 VLTs in December 2011.

Penn Cecil Maryland, Inc. (Penn Cecil) was awarded a license to operate a facility with 1,500 VLTs in Perryville in Cecil County. Penn Cecil is currently on schedule to open a permanent facility with 1,500 VLTs in October 2010.

Ocean Enterprise 589 LLC (OE 589) was awarded a license to operate a facility with 800 VLTs at Ocean Downs Racetrack in Worcester County. The facility is currently scheduled to open in fall 2010 with 600 VLTs, with the full complement of 800 VLTs in place by April 2011.

In February 2009, the Location Commission rejected a proposal for Allegany County that failed to meet the minimum requirements, including failing to pay the required license fee. In December 2009, the commission rejected the proposal for Baltimore City, finding that the proposal was not in the best interest of the State for a number of reasons. A protest of the commission's decision is pending before the Board of Contract Appeals. The Location Commission plans to rebid the Allegany County and Baltimore City (following resolution of the appeal) locations in 2010.

Paper Gaming

Paper gaming is a game of chance in which prizes are awarded, and the devices used to play the game are constructed of paper. The most common forms of paper gaming are punchboards, instant bingo, and tip jars. A punchboard is a square piece of wood or cardboard with dozens or hundreds of holes punched in it, each filled with a piece of paper with numbers or symbols printed on it. The holes are covered with foil or paper, and players pay for the right to punch one or more holes. If the numbers or symbols on their slips of paper match a winning combination, they receive a prize, either cash or another item. Tip jars dispense instant winning game tickets similar to scratch lottery games.

Paper gaming provides two sources of revenues to counties: the sale of paper gaming licenses and tickets to operators, and taxes on paper gaming sales. The Maryland State Lottery Agency advises that paper gaming occurs in at least 15 Maryland counties, and is most prevalent in Allegany, Frederick, Garrett, and Washington counties. In Allegany County, the tax rate is 10% of net income for qualified nonprofit organizations (though specified organizations are exempt) and 40% of net income for profit organizations. The State lottery report cited above states that Allegany County gained \$729,000 in revenues from paper gaming in fiscal 2008.

State Fiscal Effect: State special fund revenues and expenditures may be reduced, depending on the degree to which eligible nonprofits in Allegany County are licensed to operate and implement slot machines. These machines may serve as a substitute for gambling at VLT facilities in the State, particularly the VLT facility that is authorized for Allegany County. The timing of the opening of a VLT facility at Rocky Gap is difficult to predict given the re-bidding of the facility by the Location Commission in 2010 but will likely be several years.

Gambling at the newly eligible nonprofit organizations would represent a shift of spending from other activities, a portion of which are taxable by the State. Numerous studies have examined the relationship between expanded VLT gambling and the substitution effect this expansion has on existing VLT revenues or other State revenues such as the lottery and sales tax. Most of these studies conclude that although total revenues might increase from expanded gambling, there is a negative impact on existing revenue streams that partially offsets the revenue from expanded gambling. For example, DLS estimates that VLTs, when fully implemented, will cause a permanent 10% reduction in annual revenues from lottery.

The average annual revenue generated from existing gambling at eligible nonprofits is approximately \$130,000 (*i.e.*, total handle minus total amount returned to players) per organization. Allegany County advises that there are currently 23 volunteer fire companies in the county. The bill would add an estimated 26 organizations offering slots play; assuming 5 machines at each results in 130 slot machines generating approximately \$3.4 million in revenue annually. A small portion of this would likely have otherwise been spent at State VLT facilities. If that portion is 5%, the result is an annual loss of \$170,000 in special fund revenues. The impact to the State would include a \$82,500 reduction in Education Trust Fund revenues and a \$3,500 loss in revenues for State lottery administration of the VLT program. **Exhibit 2** shows the reduction in special fund distributions from the total reduction of \$170,000 illustrated above.

Lottery sales in Allegany County account for less than 1% of total sales. As such, no material impact on lottery revenues is anticipated.

Exhibit 2
Illustration of Reduced VLT Program Distribution

Education Trust Fund (48.5%)	\$82,500
Licensees (33%)	56,000
Purse Dedication Account (7%)	12,000
Local Impact Grants (5.5%)	9,000
Racetrack Renewal (2.5%)	4,000
Lottery Operations (2%)	3,500
Minority Business Investment (1.5%)	3,000
Total Reduction	\$170,000

Local Fiscal Effect: Allegany County permit revenues will increase. Revenues from paper gaming in the county may be reduced to the extent that authorized slot machines constitute a substitute for paper gaming.

Additional Information

Prior Introductions: None.

Cross File: HB 1049 (Allegany County Delegation) - Ways and Means.

Information Source(s): Allegany County, Comptroller's Office, Maryland State Lottery Agency, Department of Legislative Services

Fiscal Note History: First Reader - March 17, 2010
mpc/rhh

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