

HOUSE BILL 384

C7

CONSTITUTIONAL AMENDMENT

11r1422

CF 11r2485

By: **Delegates Smigiel, McDermott, Alston, Bates, Cluster, Dwyer, Elliott, Hershey, Hogan, Jacobs, McComas, W. Miller, Norman, and Parrott**

Introduced and read first time: February 3, 2011

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Gaming – Video Lottery Terminals – Repeal of Constitutional Amendment –**
3 **Changes to Statutory Provisions**

4 FOR the purpose of repealing Article XIX – Video Lottery Terminals of the Maryland
5 Constitution; specifying in statutory law that the primary purpose of the
6 operation of video lottery terminals is to raise revenue for certain public
7 educational goals; requiring in statutory law that a video lottery facility comply
8 with all applicable planning and zoning laws of the local jurisdiction; submitting
9 this amendment to the qualified voters of the State for their adoption or
10 rejection; and generally relating to video lottery terminals.

11 BY proposing a repeal of the Maryland Constitution
12 Article XIX – Video Lottery Terminals
13 Section 1 and the article designation “Article XIX – Video Lottery Terminals”

14 BY repealing and reenacting, with amendments,
15 Article – State Government
16 Section 9–1A–02 and 9–1A–11
17 Annotated Code of Maryland
18 (2009 Replacement Volume and 2010 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – State Government
21 Section 9–1A–03, 9–1A–05(a), and 9–1A–36(g) and (h)
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2010 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, (Three–fifths of all the members elected to each of the two Houses
26 concurring), That it be proposed that the Maryland Constitution read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



[Article XIX – Video Lottery Terminals]

[1.

(a) This article does not apply to:

(1) Lotteries conducted under Title 9, Subtitle 1 of the State Government Article of the Annotated Code of Maryland;

(2) Wagering on horse racing conducted under Title 11 of the Business Regulation Article of the Annotated Code of Maryland; or

(3) Gaming conducted under Title 12 or Title 13 of the Criminal Law Article of the Annotated Code of Maryland.

(b) In this article, “video lottery operation license” means a license issued to a person that allows players to operate video lottery terminals.

(c) (1) Except as provided in subsection (e) of this section, the State may issue up to five video lottery operation licenses throughout the State for the primary purpose of raising revenue for:

(i) Education for the children of the State in public schools, prekindergarten through grade 12;

(ii) Public school construction and public school capital improvements; and

(iii) Construction of capital projects at community colleges and public senior higher education institutions.

(2) Except as provided in subsection (e) of this section, the State may not authorize the operation of more than 15,000 video lottery terminals in the State.

(3) Except as provided in subsection (e) of this section, a video lottery operation license only may be awarded for a video lottery facility in the following locations:

(i) Anne Arundel County, within 2 miles of MD Route 295;

(ii) Cecil County, within 2 miles of Interstate 95;

(iii) Worcester County, within 1 mile of the intersection of Route 50 and Route 589;

1 (iv) On State property located within Rocky Gap State Park in
2 Allegany County; or

3 (v) Baltimore City, if the video lottery facility is:

4 1. Located:

5 A. In a nonresidential area;

6 B. Within one-half mile of Interstate 95;

7 C. Within one-half mile of MD Route 295; and

8 D. On property that is owned by Baltimore City on the
9 date on which the application for a video lottery operation license is submitted; and

10 2. Not adjacent to or within one-quarter mile of property
11 that is:

12 A. Zoned for residential use; and

13 B. Used for a residential dwelling on the date the
14 application for a video lottery operation license is submitted.

15 (4) Except as provided in subsection (e) of this section, the State may
16 not award more than one video lottery operation license in a single county or
17 Baltimore City.

18 (5) A video lottery facility shall comply with all applicable planning
19 and zoning laws of the local jurisdiction.

20 (d) Except as provided in subsection (e) of this section, on or after November
21 15, 2008, the General Assembly may not authorize any additional forms or expansion
22 of commercial gaming.

23 (e) The General Assembly may only authorize additional forms or expansion
24 of commercial gaming if approval is granted through a referendum, authorized by an
25 act of the General Assembly, in a general election by a majority of the qualified voters
26 in the State.

27 (f) The General Assembly may, from time to time, enact such laws not
28 inconsistent with this section, as may be necessary and proper to carry out its
29 provisions.]

30 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
31 read as follows:

1 **Article – State Government**

2 9–1A–02.

3 (a) This subtitle is statewide and exclusive in its effect.

4 (b) (1) The Commission shall regulate the operation of video lottery
5 terminals in accordance with this subtitle.6 (2) The Maryland State Lottery Agency shall provide assistance to the
7 Commission in the performance of the Commission’s duties under this subtitle.8 (c) (1) This subtitle authorizes the operation of video lottery terminals
9 owned or leased by the State that are connected to a central monitor and control
10 system owned or leased by the State that allows the Commission to monitor a video
11 lottery terminal.12 (2) The Commission shall provide and operate a single central monitor
13 and control system into which all licensed video lottery terminals must be connected.

14 (3) The central monitor and control system shall be capable of:

15 (i) continuously monitoring, retrieving, and auditing the
16 operations, financial data, and program information of all video lottery terminals;17 (ii) allowing the Commission to account for all money inserted
18 in and payouts made from any video lottery terminal;19 (iii) disabling from operation or play any video lottery terminal
20 as the Commission deems necessary to carry out the provisions of this subtitle;21 (iv) supporting and monitoring a progressive jackpot system
22 capable of operating one or more progressive jackpots; and23 (v) providing any other function that the Commission considers
24 necessary.25 (4) The central monitor and control system shall employ a widely
26 accepted gaming industry communications protocol to facilitate the ability of video
27 lottery terminal manufacturers to communicate with the statewide system.28 (5) (i) Except as provided in subparagraph (ii) of this paragraph,
29 the Commission may not allow a video lottery operation licensee to have access to, or
30 obtain information from, the central monitor and control system.31 (ii) Only if the access does not in any way affect the integrity or
32 security of the central monitor and control system, may the Commission allow a video
33 lottery operation licensee to have access to the central monitor and control system that

1 allows the licensee to obtain information pertinent to the legitimate operation of a
2 video lottery facility.

3 **(D) THE PRIMARY PURPOSE OF THE OPERATION OF VIDEO LOTTERY**
4 **TERMINALS IS TO RAISE REVENUE FOR:**

5 **(1) EDUCATION FOR THE CHILDREN OF THE STATE IN PUBLIC**
6 **SCHOOLS, PREKINDERGARTEN THROUGH GRADE 12;**

7 **(2) PUBLIC SCHOOL CONSTRUCTION AND PUBLIC SCHOOL**
8 **CAPITAL IMPROVEMENTS; AND**

9 **(3) CONSTRUCTION OF CAPITAL PROJECTS AT COMMUNITY**
10 **COLLEGES AND PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS.**

11 **[(d)] (E)** Only a person with a video lottery operation license issued under
12 this subtitle may offer a video lottery terminal for public use in the State under this
13 subtitle.

14 9-1A-03.

15 (a) Except as provided in subsection (b) of this section, any additional forms
16 or expansion of commercial gaming other than as expressly provided in this subtitle
17 are prohibited.

18 (b) This subtitle, including the authority provided to the Commission under
19 this subtitle, does not apply to:

20 (1) lotteries conducted under Subtitle 1 of this title;

21 (2) wagering on horse racing conducted under Title 11 of the Business
22 Regulation Article;

23 (3) the operation of slot machines as provided under Titles 12 and 13
24 of the Criminal Law Article; or

25 (4) other gaming conducted under Titles 12 and 13 of the Criminal
26 Law Article.

27 9-1A-05.

28 (a) The Video Lottery Facility Location Commission established under
29 § 9-1A-36 of this subtitle may not:

30 (1) award more than five video lottery operation licenses;

1 (2) award more than 15,000 video lottery terminals for operation at
2 video lottery facilities in the State; and

3 (3) subject to the requirements of § 9–1A–36(h) and (i) of this subtitle,
4 award more than 4,750 terminals for operation at any video lottery facility.

5 9–1A–11.

6 (a) Any video lottery operation licenses not issued or awarded for a location
7 authorized under this subtitle shall automatically revert to the State.

8 (b) (1) Except as provided in paragraph (2) of this subsection, a licensee
9 shall commence operation of video lottery terminals in a permanent facility at the
10 location for which the video lottery operation license has been awarded within 18
11 months after the license is awarded.

12 (2) (i) On a determination by the Commission that extenuating
13 circumstances exist that are beyond the control of an awardee and have prevented the
14 awardee from complying with the requirements of paragraph (1) of this subsection, the
15 Commission may allow the awardee an extension of 6 months to comply with the
16 requirements.

17 (ii) The Commission may not grant more than two extensions to
18 an awardee under this paragraph.

19 (3) If a video lottery operation awardee fails to comply with the
20 requirements of this subsection, the license awarded to the awardee shall be revoked
21 and shall automatically revert to the State.

22 (c) (1) Nothing in this subtitle may be construed to prohibit a video
23 lottery operation licensee that is issued a license from beginning video lottery terminal
24 operations in a temporary facility that meets the minimum requirements established
25 in regulations adopted by the State Lottery Commission.

26 (2) Notwithstanding the provisions of paragraph (1) of this subsection,
27 a video lottery operation licensee shall be operational in a permanent facility no later
28 than 30 months after the award of the video lottery operation license.

29 **(D) A VIDEO LOTTERY FACILITY SHALL COMPLY WITH ALL APPLICABLE**
30 **PLANNING AND ZONING LAWS OF THE LOCAL JURISDICTION.**

31 **[(d)] (E)** For a location in Allegany County, video lottery terminals may be
32 temporarily located in the Rocky Gap Lodge and Resort until a permanent facility is
33 constructed, subject to the requirements of subsection (b) of this section.

34 9–1A–36.

1 (g) The Video Lottery Facility Location Commission may not award more
2 than one video lottery facility operation license in a single county or Baltimore City.

3 (h) (1) In order to qualify for a video lottery operation license under this
4 section, a proposed video lottery facility shall be located in one of the following
5 counties:

6 (i) a location in Anne Arundel County, within 2 miles of MD
7 Route 295;

8 (ii) a location in Cecil County, within 2 miles of Interstate 95;

9 (iii) except as provided in § 9–1A–11(d) of this subtitle, a location
10 on State property associated with the Rocky Gap State Park in Allegany County that
11 shall be in a separate building that may be adjacent or connected to the Rocky Gap
12 Lodge and Golf Resort;

13 (iv) a location in Worcester County, within 1 mile of the
14 intersection of Route 50 and Route 589; or

15 (v) a location in Baltimore City that is:

16 1. located:

17 A. in a nonresidential area;

18 B. within one-half mile of Interstate 95;

19 C. within one-half mile of MD Route 295; and

20 D. on property that is owned by Baltimore City on the
21 date on which the application for a video lottery operation license is submitted; and

22 2. not adjacent to or within one-quarter mile of property
23 that is:

24 A. zoned for residential use; and

25 B. used for a residential dwelling on the date the
26 application for a video lottery operation license is submitted.

27 (2) Nothing in this subtitle may be construed to preempt the exclusive
28 authority of the Video Lottery Facility Location Commission to award video lottery
29 operation licenses in accordance with this subtitle.

30 (3) (i) With respect to a video lottery operation license awarded to
31 a location under paragraph (1)(iv) of this subsection, the holder of the video lottery

1 operation license or any other person with a direct or indirect legal or financial
2 interest in the Ocean Downs racetrack or video lottery facility may not:

3 1. build any type of hotel, motel, or other public lodging
4 accommodation on or within 10 miles of the property owned by the holder of the
5 license on which a video lottery facility is operated;

6 2. convert an existing facility on or within 10 miles of
7 the property described in item 1 of this subparagraph into any type of hotel, motel, or
8 other public lodging accommodation;

9 3. build or operate a conference center or convention
10 center, amusement park, amusement rides, arcade, or miniature golf course on or
11 within 10 miles of the property described in item 1 of this subparagraph; or

12 4. offer to patrons of the video lottery facility the playing
13 of live music, floor shows, dancing, dancing exhibitions, performances, or any other
14 form of live entertainment in or near the video lottery facility, provided that the holder
15 of the video lottery operation license for the location under paragraph (1)(iv) of this
16 subsection or another person with a direct or indirect legal or financial interest in the
17 Ocean Downs racetrack or the video lottery facility may allow:

18 A. live fireworks displays to be conducted on the
19 property; and

20 B. a single piano that is played by an individual.

21 (ii) The prohibitions under subparagraph (i) of this paragraph
22 apply to any subsequent holder of a video lottery operation license awarded under
23 paragraph (1)(iv) of this subsection.

24 SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly
25 determines that the amendment to the Maryland Constitution proposed by Section 1
26 of this Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of
27 the Maryland Constitution concerning local approval of constitutional amendments do
28 not apply.

29 SECTION 4. AND BE IT FURTHER ENACTED, That the amendment to the
30 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the
31 qualified voters of the State at the next general election to be held in November, 2012
32 for their adoption or rejection pursuant to Article XIV of the Maryland Constitution.
33 At that general election, the vote on this proposed amendment to the Constitution
34 shall be by ballot, and upon each ballot there shall be printed the words "For the
35 Constitutional Amendment" and "Against the Constitutional Amendment," as now
36 provided by law. Immediately after the election, all returns shall be made to the
37 Governor of the vote for and against the proposed amendment, as directed by Article
38 XIV of the Maryland Constitution, and further proceedings had in accordance with
39 Article XIV.

1 SECTION 5. AND BE IT FURTHER ENACTED, That, except for Sections 3 and
2 4 of this Act, this Act shall take effect July 1, 2011.