

HOUSE BILL 488

C7
HB 512/10 – W&M

11r1431
CF 11r1614

By: **Delegates Bromwell, Boteler, Cane, Cardin, Clagett, Cluster, Conaway, Costa, DeBoy, Donoghue, Frank, Glass, Guzzone, Hogan, Kach, Kaiser, K. Kelly, Kipke, McDermott, W. Miller, Minnick, Mitchell, Morhaim, Olszewski, B. Robinson, Rudolph, Schulz, Smigiel, Tarrant, and Weir**

Introduced and read first time: February 7, 2011

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Video Lottery Terminals – Baltimore–Washington International Thurgood**
3 **Marshall Airport**

4 FOR the purpose of altering the number of video lottery operation licenses and video
5 lottery terminals that may be awarded by the Video Lottery Facility Location
6 Commission to provide for the award of a video lottery operation license at
7 Baltimore–Washington International Thurgood Marshall Airport under certain
8 conditions; providing that a certain restriction on the number of video lottery
9 operation licenses that may be awarded in a county or Baltimore City is not
10 applicable; requiring that certain proceeds be paid into the Transportation
11 Trust Fund; providing that an application for a certain video lottery operation
12 license be made by a certain date; making this Act contingent on the passage
13 and ratification of a certain constitutional amendment; and generally relating to
14 the operation of video lottery terminals at a certain location in the State.

15 BY repealing and reenacting, with amendments,
16 Article – State Government
17 Section 9–1A–05(a), 9–1A–27(a), and 9–1A–36(f), (g), (h), (i), (j), and (q)
18 Annotated Code of Maryland
19 (2009 Replacement Volume and 2010 Supplement)

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

22 **Article – State Government**

23 9–1A–05.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) The Video Lottery Facility Location Commission established under §
2 9–1A–36 of this subtitle may not:

3 (1) award more than ~~[five]~~ **SIX** video lottery operation licenses;

4 (2) award more than ~~[15,000]~~ **17,500** video lottery terminals for
5 operation at video lottery facilities in the State; ~~[and]~~

6 (3) subject to the requirements of **PARAGRAPH (4) OF THIS**
7 **SUBSECTION AND** § 9–1A–36(h) and (i) of this subtitle, award more than 4,750
8 terminals for operation at any video lottery facility; **AND**

9 (4) **AWARD MORE THAN 2,500 VIDEO LOTTERY TERMINALS FOR**
10 **OPERATION AT BALTIMORE–WASHINGTON INTERNATIONAL THURGOOD**
11 **MARSHALL AIRPORT.**

12 9–1A–27.

13 (a) On a properly approved transmittal prepared by the Commission, the
14 Comptroller shall pay the following amounts from the proceeds of video lottery
15 terminals at each video lottery facility:

16 (1) 2% to the State Lottery Agency for costs as defined in § 9–1A–01 of
17 this subtitle;

18 (2) except as provided in subsection (b) of this section, to the video
19 lottery operation licensee, the percentage stated in the accepted application for the
20 location, not to exceed 33%;

21 (3) 5.5% in local impact grants, in accordance with § 9–1A–31 of this
22 subtitle;

23 (4) 7% to the Purse Dedication Account established under § 9–1A–28
24 of this subtitle, not to exceed a total of \$100,000,000 to the Account annually;

25 (5) (i) Except as provided in item (ii) of this item, for the first 8
26 years of operations at a video lottery facility, 2.5% to the Racetrack Facility Renewal
27 Account established under § 9–1A–29 of this subtitle, not to exceed a total of
28 \$40,000,000 to the Account annually

29 (ii) for the first 5 years of operations at a video lottery facility in
30 Allegany County, 2.5% to the video lottery operation licensee that satisfies the
31 requirement under subsection (b) of this section;

32 (6) 1.5% to the Small, Minority, and Women–Owned Businesses
33 Account established under § 9–1A–35 of this subtitle; and

1 (7) the remainder to:

2 (I) the Education Trust Fund established under § 9–1A–30 of
3 this subtitle; OR

4 (II) IF THE PROCEEDS ARE FROM THE VIDEO LOTTERY
5 TERMINALS AT BALTIMORE–WASHINGTON INTERNATIONAL THURGOOD
6 MARSHALL AIRPORT, THE TRANSPORTATION TRUST FUND.

7 9–1A–36.

8 (f) The Video Lottery Facility Location Commission may award not more
9 than [five] SIX video lottery operation licenses to qualified applicants, through a
10 competitive process consistent with the process for competitive sealed proposals under
11 Title 13 of the State Finance and Procurement Article.

12 (g) (1) THIS SUBSECTION DOES NOT APPLY TO A VIDEO LOTTERY
13 OPERATION LICENSE AWARDED FOR OPERATION OF VIDEO LOTTERY
14 TERMINALS AT BALTIMORE–WASHINGTON INTERNATIONAL THURGOOD
15 MARSHALL AIRPORT.

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

19 (h) (1) In order to qualify for a video lottery operation license under this
20 section, a proposed video lottery facility shall be located in one of the following
21 [counties] LOCATIONS:

22 (i) [a location] in Anne Arundel County, within 2 miles of MD
23 Route 295;

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

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

29 (iv) [a location] in Worcester County, within 1 mile of the
30 intersection of Route 50 and Route 589; [or]

31 (v) [a location] in Baltimore City ON PROPERTY that is:

32 1. located:

- 1 A. in a nonresidential area;
- 2 B. within one-half mile of Interstate 95;
- 3 C. within one-half mile of MD Route 295; and
- 4 D. on property that is owned by Baltimore City on the
5 date on which the application for a video lottery operation license is submitted; and
- 6 2. not adjacent to or within one-quarter mile of property
7 that is:
- 8 A. zoned for residential use; and
- 9 B. used for a residential dwelling on the date the
10 application for a video lottery operation license is submitted; OR

11 **(VI) AT THE TERMINAL BUILDING AND SURROUNDING AREA**
12 **WITHIN THE SECURITY PERIMETER OF BALTIMORE-WASHINGTON**
13 **INTERNATIONAL THURGOOD MARSHALL AIRPORT.**

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

17 (3) (i) With respect to a video lottery operation license awarded to
18 a location under paragraph (1)(iv) of this subsection, the holder of the video lottery
19 operation license or any other person with a direct or indirect legal or financial
20 interest in the Ocean Downs racetrack or video lottery facility may not:

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

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

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

30 4. offer to patrons of the video lottery facility the playing
31 of live music, floor shows, dancing, dancing exhibitions, performances, or any other
32 form of live entertainment in or near the video lottery facility, provided that the holder
33 of the video lottery operation license for the location under paragraph (1)(iv) of this

1 subsection or another person with a direct or indirect legal or financial interest in the
2 Ocean Downs racetrack or the video lottery facility may allow:

3 A. live fireworks displays to be conducted on the
4 property; and

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

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

9 (i) (1) Except as provided in paragraphs (2) and (3) of this subsection, the
10 Video Lottery Facility Location Commission may not allocate more than the following
11 number of video lottery terminals for:

12 (i) a location in Anne Arundel County – 4,750 video lottery
13 terminals;

14 (ii) a location in Baltimore City – 3,750 video lottery terminals;

15 (iii) a location in Cecil County – 2,500 video lottery terminals;

16 (iv) a location in Rocky Gap State Park (Allegany County) –
17 1,500 video lottery terminals; **[and]**

18 (v) a location in Worcester County – 2,500 video lottery
19 terminals; **AND**

20 **(VI) A LOCATION AT THE TERMINAL BUILDING AND**
21 **SURROUNDING AREA WITHIN THE SECURITY PERIMETER OF**
22 **BALTIMORE–WASHINGTON INTERNATIONAL THURGOOD MARSHALL AIRPORT –**
23 **2,500 VIDEO LOTTERY TERMINALS.**

24 (2) **[The] EXCEPT AS PROVIDED IN § 9–1A–05(A)(4) OF THIS**
25 **SUBTITLE, THE** Video Lottery Facility Location Commission may allocate video
26 lottery terminals in a manner that is different from the allocation provided in
27 paragraph (1) of this subsection on a determination that the market factors and other
28 factors evaluated under subsection (k) of this section warrant the different allocation,
29 provided that no one location may be allocated more than 4,750 video lottery
30 terminals.

31 (3) (i) **[Beginning] EXCEPT AS PROVIDED IN § 9–1A–05(A)(4)**
32 **OF THIS SUBTITLE, BEGINNING** with the termination date for the Video Lottery
33 Facility Location Commission and every 3 years thereafter, if all of the video lottery
34 terminals authorized under this subtitle are not allocated or have been allocated but
35 are not in regular operation, the State Lottery Commission may allocate or reallocate

1 video lottery terminals to video lottery operation licensees in a manner that ensures
2 that the highest potential revenues are achieved.

3 (ii) In determining the highest potential revenues to be achieved
4 by additional video lottery terminals at each potential location, the State Lottery
5 Commission shall consider the market performance of the existing video lottery
6 terminals at each location.

7 (j) (1) **[An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
8 **SUBSECTION, AN** application submitted for a video lottery operation license under
9 this section shall include an initial license fee in the application of at least \$3,000,000
10 for each 500 video lottery terminals included in the application.

11 **(2) AN APPLICATION SUBMITTED FOR A VIDEO LOTTERY**
12 **OPERATION LICENSE AT BALTIMORE-WASHINGTON INTERNATIONAL**
13 **THURGOOD MARSHALL AIRPORT SHALL BE SUBMITTED BY APRIL 15, 2013.**

14 **[(2)] (3)** All initial license fees submitted under this subtitle shall
15 accrue to the Education Trust Fund established under § 9-1A-30 of this subtitle.

16 **[(3)] (4)** An application submitted for a video lottery operation
17 license under this section shall provide for at least \$25,000,000 in direct investment by
18 the applicant in construction and related costs for each 500 video lottery terminals
19 contained in the proposed application that shall be prorated based on the exact
20 number of video lottery terminals contained in the application.

21 (q) (1) Nothing in this subtitle may be construed to require the Video
22 Lottery Facility Location Commission to award all **[five] SIX** video lottery operation
23 licenses authorized under this subtitle.

24 (2) Notwithstanding any of the provisions of this subtitle, the Video
25 Lottery Facility Location Commission may not award a video lottery operation license
26 under this subtitle unless the Video Lottery Facility Location Commission determines
27 and declares that an applicant selected for award of the license is in the public interest
28 and is consistent with the purposes of this subtitle.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on
30 the passage of Chapter ____ (S.B. ____/H.B. ____)(11r1432/11r1616) of the Acts of the
31 General Assembly of 2011, a constitutional amendment, and its ratification by the
32 voters of the State.

33 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions
34 of Section 2 of this Act, this Act shall take effect on the proclamation of the Governor
35 that the constitutional amendment, having received a majority of the votes cast at the
36 general election, has been adopted by the people of Maryland.