

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 423

(Senator Peters, *et al.*)

Budget and Taxation

State Lottery - Licenses - Veterans' Organizations

This bill authorizes the Maryland State Lottery Agency to issue a license for up to three lottery ticket terminals to an eligible veterans' organization as defined by the State Criminal Law Article. After deduction of any commission and validation prize payout, the licensed veterans' organization must use half of the receipts generated from the sale of lottery tickets for charitable purposes and an additional 10% of receipts are dedicated to the Maryland Veterans Trust Fund (MVTF), beginning in July 1, 2012; the remaining 40% of receipts must be credited to the State Lottery Fund. A licensed veterans' organization must purchase or lease the lottery ticket terminals from the State Lottery Agency, but may not use receipts from the sale of lottery tickets that would otherwise be used for charitable purposes or credited to the MVTF or the State Lottery Fund to purchase or lease the terminals.

The bill also requires the State Lottery Agency to ensure that the conduct of gaming and the operation of the lottery ticket terminals authorized by the bill are consistent with the holding in the case of *Chesapeake Amusements Inc. v. Riddle*, 363 Md. 16 (2001).

Fiscal Summary

State Effect: MVTF and State Lottery Fund special fund revenues increase to the extent lottery ticket sales are increased under the bill. General fund revenues and expenditures increase by an indeterminate amount due to the sale or lease of lottery ticket terminals and the costs associated with the State Lottery Agency acquiring additional lottery ticket terminals. Special fund expenditures increase to cover State Lottery Agency costs associated with monitoring the operation of lottery ticket terminals at licensed veterans' organizations. General fund revenues decrease to the extent lottery ticket sales at veterans' organizations displace sales made by licensed lottery agents.

Local Effect: None.

Small Business Effect: Potential meaningful. Licensed State lottery agents in the vicinity of a veterans' organization licensed for lottery ticket terminals may be adversely affected by decreased sales and commissions.

Analysis

Current Law/Background: Section 12-101 of the Criminal Law Article defines "organization" as including a veterans' organization or club, but does not further define the term.

Lottery Ticket Sales and the State Lottery Fund

State criminal law prohibits all lotteries except the State lottery or multijurisdictional lotteries authorized under the State Government Article. The State Lottery Agency must issue licenses to persons and governmental units that will best serve the public convenience and promote the sale of State lottery tickets or shares.

An agent licensed by the State Lottery Agency receives a commission of 5% of gross receipts from the agent's lottery ticket sales; the commission increases to 5.5% beginning in fiscal 2013. A licensed agent may also receive a cashing fee not to exceed 3% of valid prizes paid for services rendered in cashing winning tickets.

Each month, the Comptroller must make payments from the State Lottery Fund to:

- lottery winners;
- the State Lottery for operating expenses; and
- the Maryland Stadium Facilities Fund, from revenues generated by sports lotteries conducted on behalf of the Maryland Stadium Authority.

After those payments are made, any money remaining in the State Lottery Fund is deposited into the State's general fund.

In general, two types of games are offered by the Maryland State Lottery Agency: instant games and online games. Instant games are played by scratching a latex covering off a play area to reveal preprinted combinations. If a winning combination is revealed, the customer is an instant winner. Instant games generally have price points between \$1 and \$20. Online games allow players to pick their numbers or use automatic computer-generated plays. Customers receive a ticket and then wait for the drawing to determine if they have won. Online games include monitor games (*e.g.*, Keno), numbers games (*e.g.*, Pick 4), matrix games (*e.g.*, Mega Millions), and occasionally raffles (*e.g.*, Countdown to Millions).

In fiscal 2010, the State Lottery generated \$1.7 billion from ticket sales. Payments to lottery winners were \$1.0 billion, while operating costs and payments to agents totaled \$165.0 million. Approximately \$491.0 million was deposited in the general fund after payments were made to the Maryland Stadium Facilities Fund (\$19.6 million). **Exhibit 1** shows lottery sales by jurisdiction in fiscal 2010.

Exhibit 1
State Lottery Sales by County
Fiscal 2010

County	Total Sales	% Of Sales
Allegany	\$10,715,258	0.63%
Anne Arundel	173,999,349	10.20%
Baltimore City	300,594,473	17.61%
Baltimore	278,857,734	16.34%
Calvert	23,437,707	1.37%
Caroline	7,136,091	0.42%
Carroll	34,262,344	2.01%
Cecil	21,368,526	1.25%
Charles	54,698,152	3.21%
Dorchester	8,578,248	0.50%
Frederick	36,068,383	2.11%
Garrett	3,297,026	0.19%
Harford	60,368,798	3.54%
Howard	46,782,605	2.74%
Kent	4,219,742	0.25%
Montgomery	166,297,020	9.74%
Prince George's	342,970,457	20.10%
Queen Anne's	11,323,166	0.66%
St. Mary's	35,773,325	2.10%
Somerset	6,390,263	0.37%
Talbot	8,463,852	0.50%
Washington	25,831,088	1.51%
Wicomico	20,378,999	1.19%
Worcester	24,759,976	1.45%
Total	\$1,706,572,575	100.00%

Note: Numbers do not sum to the total due to rounding.

Source: Maryland State Lottery Agency

Maryland Veterans Trust Fund

Chapter 742 of 2009 established MVTF, which consists of gifts and grants received by the Maryland Department of Veterans Affairs (MDVA) and is administered by the Secretary of Veterans Affairs. Money in the fund may be used to make grants and loans to veterans and their families, support public and private programs that serve veterans in the State, or support the Charlotte Hall Veterans Home. Money in the fund may also be used to invest in general obligations of the State or other securities, pay for the cost of administering the fund, or support any other programs that the Secretary considers appropriate. Money expended from the fund is supplemental to and is not intended to take the place of funding otherwise appropriated to MDVA. The proposed fiscal 2012 State budget for MDVA includes \$235,000 for MVTF.

VLT Program

During the 2007 special session, the General Assembly adopted two pieces of legislation pertaining to 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. Chapter 624 of 2010 made several changes to the VLT program implemented by Chapter 4.

Under Chapter 4, VLT facility operation licenses are awarded by the Video Lottery Facility Location Commission. The State Lottery Commission oversees VLT operations and owns/leases VLTs and a central monitor and control system. Chapter 4 allows for a maximum of 15,000 VLTs, 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 (Rocky Gap State Park).

The Video Lottery Facility Location Commission has awarded video lottery operation licenses for VLT facility locations in Anne Arundel, Cecil, and Worcester counties. The Cecil County VLT facility opened on September 27, 2010, with 1,500 VLTs and the Worcester County VLT facility opened on January 4, 2011, with 750 VLTs. Power Plant Entertainment Casino Resorts, LLC plans to open a temporary facility with 2,000 VLTs adjacent to Arundel Mills Mall in Anne Arundel County in the fourth quarter of 2011, with a permanent facility with 4,750 VLTs scheduled to open in the fourth quarter of 2012. The licenses for Baltimore City and Allegany County have yet to be awarded.

Local Gaming

Each county is responsible for regulating gaming activities conducted by civic and charitable organizations, and there is no statewide reporting of gaming activities by civic and charitable organizations. Except as discussed below, gaming licensees may use the proceeds of gaming activities for the benefit of their own organizations, but do not need to share them with other organizations. Legislation was enacted in 1987 and 2007 authorizing certain nonprofit organizations to operate slot machines in eight Eastern Shore counties. These slot machine operators must use half of the proceeds from slot machines to benefit a charity.

Prohibited Gaming and Admissions and Amusement Tax

In *Chesapeake Amusements Inc. v. Riddle*, the Maryland Court of Appeals took up the issue of “whether a dispensing machine with a video screen that displays the contents of the tickets that it dispenses and emits a musical tone that signals when a winning ticket is being dispensed is a ‘slot machine,’” as defined by Maryland law. The Court of Appeals found that the machine in question was not a slot machine. In response to this decision, Chapter 474 of 2008 altered the definition of “slot machine” to include a machine that reads a game of chance and a machine that delivers a game of chance.

Chapter 474 of 2008 also prohibited certain gaming machines licensed by local jurisdictions, primarily electronic bingo and tip jar machines, from operating after July 1, 2009. Chapter 661 of 2009 extended this termination date to July 1, 2012. The law also provides for exceptions for certain machines that are not considered slot machines:

- machines that award the user additional free games;
- machines that are arcade-type games that provide noncash prizes of minimal value; and
- paper pull tab tip jars and paper pull tab instant bingo tickets that must be opened manually as long as the machine does not electronically read the ticket, does not alert the user to winnings, or does not tabulate the winnings.

Personal electronic bingo machines are also excluded as long as the machine does not allow a person to play more than 54 cards at one time. State lottery machines that dispense lottery tickets and video lottery terminals (VLTs) are also excluded.

At the 2007 special session, the General Assembly approved legislation (Chapter 6) that imposed a 20% State admissions and amusement tax on the net receipts generated from the operation of electronic bingo and electronic tip jars operated for commercial purposes, with revenues accruing to the general fund.

Chapter 661 of 2009 increased the State admissions and amusement tax rate on net proceeds from electronic bingo and electronic tip jar machines from 20% to 30%. However, the rate of the State tax may not exceed, when combined with the rate of any municipal or county tax rate, a rate of 35% on the net proceeds. The revenue attributable to a State admissions and amusement tax rate *above* 20% is distributed to a special fund for the preservation of cultural arts. The first 20% continues to be distributed to the general fund.

State Fiscal Effect: State Lottery Fund and MVTF revenues increase to the extent that lottery tickets are sold by veterans' organizations. The amount of the increase will depend upon the number of licenses awarded, the number of terminals authorized under each license, and the strength of sales of lottery tickets by each licensed veterans' organization. State Lottery Agency revenues increase to the extent that license fees are assessed to, and lottery ticket terminals are purchased or leased by veterans' organizations from the State Lottery Agency. However, this revenue increase may be more than offset by State Lottery Agency expenditures associated with the cost of acquiring machines to be leased or sold to veterans' organizations and increased administrative and monitoring responsibilities under the bill.

State special fund revenues and expenditures may be reduced, depending on the degree to which eligible veterans' organizations are licensed to operate lottery ticket terminals. These machines may serve as a substitute for gambling at VLT facilities in the State, particularly in counties where VLT facilities are located.

Any sale of lottery tickets from lottery ticket terminals located at licensed veterans' organizations may also reduce State lottery ticket sales elsewhere. The impact of these lottery ticket terminals on VLT revenues and existing lottery sales and revenue is difficult to quantify. The magnitude of the impact will depend on the number of lottery ticket terminals sold or leased to eligible veterans' organizations and the amount of sales made by these organizations.

Additional Information

Prior Introductions: None.

Cross File: HB 952 (Delegate James) - Ways and Means.

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

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