

Department of Legislative Services
2011 Session

FISCAL AND POLICY NOTE

Revised

Senate Bill 249

(Senator Mathias)

Budget and Taxation

Ways and Means

Slot Machines for Nonprofit Organizations on the Eastern Shore - Expansion and Oversight

This bill adds Worcester County to the list of Eastern Shore 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. At least one-half of the gross proceeds must go to charity and the remainder to further the organizations' purposes. The bill also requires the Comptroller's Office to regulate slot machines operated by eligible organizations located in Eastern Shore counties.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: Potential decrease in special fund revenues and expenditures from the Video Lottery Terminal (VLT) Program beginning in FY 2012. Under one set of assumptions, State revenues may decrease by \$100,000 annually, with approximately half needing to be replaced with general funds to support mandated expenses. Minimal increase in special fund revenues and expenditures at the Comptroller's Office due to regulation of slot machines.

Local Effect: Minimal decrease in revenues beginning in FY 2012 from annual slot machine license fees in counties that currently regulate slot machines. County administrative and law enforcement expenditures in these counties may also decrease minimally beginning in FY 2012. Potential decrease in local impact grants distributed to certain counties from the VLT program beginning in FY 2012.

Small Business Effect: None.

Analysis

Bill Summary: The Comptroller is required to regulate slot machines operated by eligible organizations located in the Eastern Shore counties. An organization must obtain a license from the Comptroller's Office, which will set a fee in the amount directly related to the administrative costs of the regulation of these slot machines. However, the Comptroller may not issue a license for a slot machine to an eligible organization located in Ocean City that is located east of South and North Baltimore Avenues. The Comptroller's Office may adopt regulations to implement the bill. These regulations may require the auditing of the annual reports submitted to the Comptroller's Office. The Comptroller may not initiate any audit or specified reporting requirements until July 1, 2012.

Current Law: In order to operate a slot machine, an eligible organization must obtain a license from the Sheriff's Office in which the organization is located 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.

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 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).

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.

The Video Lottery Facility Location Commission has awarded video lottery operation licenses for VLT facility locations in Anne Arundel, Cecil, and Worcester counties. Penn Cecil in Cecil County opened in late September 2010 with 1,500 VLTs and Ocean Downs in Worcester County opened in January 2011 with 750 (increasing to

800 in the near future) VLTs. Power Plant Entertainment (PPE) Casino Resorts, LLC was awarded a license in December 2009 to operate a 4,750 VLT facility adjacent to Arundel Mills Mall in Anne Arundel County, contingent upon local zoning approval. County officials subsequently approved zoning legislation, but the legislation was petitioned to a local voter referendum at the November 2010 election. Anne Arundel County voters approved the legislation, allowing the VLT facility to go forward. PPE plans to open a 2,000 VLT temporary facility by the end of 2011 with a permanent facility scheduled to open by the end of 2012. The licenses for Baltimore City and Rocky Gap State Park are yet to be awarded.

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

State Fiscal Effect:

VLT Program

State special fund revenues and expenditures may be reduced, depending on the degree to which eligible nonprofits in Worcester 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 Casino at Ocean Downs Racetrack, the VLT facility in Worcester County.

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. The bill would add an estimated eight organizations offering slots play; assuming 5 machines at each location results in 40 slot machines generating approximately \$1 million in revenue annually. A small portion of this would likely have otherwise been spent at State VLT facilities. If that portion is 10%, the result is an annual loss of \$100,000 in special fund revenues. The impact to the State would include a \$48,500 reduction in Education Trust Fund revenues and a \$2,000 loss in revenues for State lottery administration of the VLT program. These lost revenues would likely need to be replaced with general funds to cover mandated K-12 education aid and VLT lease costs. **Exhibit 2** shows the reduction in special fund distributions from the total reduction of \$100,000 illustrated above, based on the distribution of VLT revenues from facilities other than Rocky Gap State Park.

Exhibit 2
Illustration of Reduced VLT Program Distribution

Education Trust Fund (48.5%)	\$48,500
Licensees (33%)	33,000
Purse Dedication Account (7%)	7,000
Local Impact Grants (5.5%)	5,500
Racetrack Renewal (2.5%)	2,500
Lottery Operations (2%)	2,000
Minority Business Investment (1.5%)	1,500
Total Reduction	\$100,000

Comptroller's Office

Special fund revenues increase minimally beginning in fiscal 2012 due to slot machine license fees. Special fund expenditures also increase minimally at the Comptroller's Office beginning in fiscal 2012 due to increased administrative costs in order to regulate slot machines operated by eligible organizations.

Additional Information

Prior Introductions: HB 56 of 2010 passed the House and the Senate, but differences were not resolved by the conference committee. HB 65 of 2009 passed the House and received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. HB 1008 of 2008 passed the House and received a favorable report from the Senate Budget and Taxation Committee, but failed to pass in the Senate.

Cross File: HB 39 (Delegates Conway and McDermott) - Ways and Means.

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

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