

HOUSE BILL 711

C7
HB 488/11 – W&M

2lr2044

By: **Delegates Bromwell, Boteler, Cane, Cardin, Clagett, Cluster, Conaway, Costa, DeBoy, Donoghue, Elliott, Frank, Glenn, Guzzone, Hershey, Hogan, Impallaria, Ivey, Jacobs, James, Kach, K. Kelly, Kipke, McDermott, McDonough, McHale, W. Miller, Minnick, Mitchell, Morhaim, Oaks, Otto, Reznik, B. Robinson, Rudolph, Schulz, Smigiel, Tarrant, Weir, and Wood**

Introduced and read first time: February 8, 2012

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 2011 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**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 9-1A-05.

2 (a) The Video Lottery Facility Location Commission established under
3 § 9-1A-36 of this subtitle may not:

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

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

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

10 **(4) AWARD MORE THAN 2,500 VIDEO LOTTERY TERMINALS FOR**
11 **OPERATION AT BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD**
12 **MARSHALL AIRPORT; AND**

13 **[(4)] (5)** for a location in Allegany County:

14 (i) award a video lottery operation license to an applicant that
15 does not agree to purchase the Rocky Gap Lodge and Resort; and

16 (ii) notwithstanding § 9-1A-36(i)(2) of this subtitle, award more
17 than 1,000 video lottery terminals for operation at a video lottery facility in Allegany
18 County.

19 9-1A-27.

20 (a) Except as provided in subsection (b) of this section, on a properly
21 approved transmittal prepared by the Commission, the Comptroller shall pay the
22 following amounts from the proceeds of video lottery terminals at each video lottery
23 facility:

24 (1) 2% to the State Lottery Agency for costs as defined in § 9-1A-01 of
25 this subtitle;

26 (2) to the video lottery operation licensee, the percentage stated in the
27 accepted application for the location, not to exceed 33%;

28 (3) 5.5% in local impact grants, in accordance with § 9-1A-31 of this
29 subtitle;

30 (4) 7% to the Purse Dedication Account established under § 9-1A-28
31 of this subtitle, not to exceed a total of \$100,000,000 to the Account annually;

1 (5) for the first 8 years of operations at a video lottery facility, 2.5% to
2 the Racetrack Facility Renewal Account established under § 9-1A-29 of this subtitle,
3 not to exceed a total of \$40,000,000 to the Account annually;

4 (6) 1.5% to the Small, Minority, and Women-Owned Businesses
5 Account established under § 9-1A-35 of this subtitle; and

6 (7) the remainder to:

7 (I) the Education Trust Fund established under § 9-1A-30 of
8 this subtitle; OR

9 (II) IF THE PROCEEDS ARE FROM THE VIDEO LOTTERY
10 TERMINALS AT BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD
11 MARSHALL AIRPORT, THE TRANSPORTATION TRUST FUND.

12 9-1A-36.

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

17 (g) (1) THIS SUBSECTION DOES NOT APPLY TO A VIDEO LOTTERY
18 OPERATION LICENSE AWARDED FOR OPERATION OF VIDEO LOTTERY
19 TERMINALS AT BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD
20 MARSHALL AIRPORT.

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

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

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

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

30 (iii) a location on State property associated with the Rocky Gap
31 State Park in Allegany County;

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

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

13 **(VI) IN ENCLOSED AREAS AT THE TERMINAL BUILDING**

14 **WITHIN THE SECURITY PERIMETER OF BALTIMORE-WASHINGTON**

15 **INTERNATIONAL THURGOOD MARSHALL AIRPORT.**

16 (2) Nothing in this subtitle may be construed to preempt the exclusive

17 authority of the Video Lottery Facility Location Commission to award video lottery

18 operation licenses in accordance with this subtitle.

19 (3) (i) With respect to a video lottery operation license awarded to

20 a location under paragraph (1)(iv) of this subsection, the holder of the video lottery

21 operation license or any other person with a direct or indirect legal or financial

22 interest in the Ocean Downs racetrack or video lottery facility may not:

23 1. build any type of hotel, motel, or other public lodging

24 accommodation on or within 10 miles of the property owned by the holder of the

25 license on which a video lottery facility is operated;

26 2. convert an existing facility on or within 10 miles of

27 the property described in item 1 of this subparagraph into any type of hotel, motel, or

28 other public lodging accommodation;

29 3. build or operate a conference center or convention

30 center, amusement park, amusement rides, arcade, or miniature golf course on or

31 within 10 miles of the property described in item 1 of this subparagraph; or

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

7 A. live fireworks displays to be conducted on the
8 property; and

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

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

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

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

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

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

20 (iv) a location in Rocky Gap State Park
21 (Allegany County) – 1,000 video lottery terminals; [and]

22 (v) a location in Worcester County – 2,500 video lottery
23 terminals; AND

24 **(VI) A LOCATION AT THE TERMINAL BUILDING AND**
25 **SURROUNDING AREA WITHIN THE SECURITY PERIMETER OF**
26 **BALTIMORE–WASHINGTON INTERNATIONAL THURGOOD MARSHALL**
27 **AIRPORT – 2,500 VIDEO LOTTERY TERMINALS.**

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

1 (3) (i) [Beginning] **EXCEPT AS PROVIDED IN § 9-1A-05(A)(4)**
2 **OF THIS SUBTITLE, BEGINNING** with the termination date for the Video Lottery
3 Facility Location Commission and every 3 years thereafter, if all of the video lottery
4 terminals authorized under this subtitle are not allocated or have been allocated but
5 are not in regular operation, the State Lottery Commission may allocate or reallocate
6 video lottery terminals to video lottery operation licensees in a manner that ensures
7 that the highest potential revenues are achieved.

8 (ii) In determining the highest potential revenues to be achieved
9 by additional video lottery terminals at each potential location, the State Lottery
10 Commission shall consider the market performance of the existing video lottery
11 terminals at each location.

12 (j) (1) (i) Except as provided in **PARAGRAPH (2) OF THIS**
13 **SUBSECTION AND** subparagraph (ii) of this paragraph, an application submitted for a
14 video lottery operation license under this section shall include an initial license fee in
15 the application of at least \$3,000,000 for each 500 video lottery terminals included in
16 the application.

17 (ii) For an application submitted for a video lottery operation
18 license in Allegany County, the initial license fee for up to 500 video lottery terminals
19 shall be waived.

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

23 **[(2)] (3)** All initial license fees submitted under this subtitle shall
24 accrue to the Education Trust Fund established under § 9-1A-30 of this subtitle.

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

30 (ii) For an application submitted for a video lottery operation
31 license in Allegany County, the purchase price for the Rocky Gap Lodge and Resort
32 shall be counted in the calculation of the applicant's direct investment under this
33 paragraph, as determined by the Video Lottery Facility Location Commission.

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

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on
7 the passage of Chapter ____ (S.B. ____/H.B. ____)(2lr2048) of the Acts of the General
8 Assembly of 2012, a constitutional amendment, and its ratification by the voters of the
9 State.

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