

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 257  
Ways and Means

(Delegate McDermott, *et al.*)

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Computers - Video Lottery Terminals - Tampering

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This bill expands the definition of “computer” to include a video lottery terminal (VLT) and clarifies that the current prohibitions on unauthorized access to computers and related material apply to a VLT or the associated equipment owned by the State Lottery Commission.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund revenues from fines imposed in District Court cases. Potential minimal increase in general fund expenditures due to the bill’s expanded application of current incarceration penalties.

**Local Effect:** Potential minimal increase in local revenues from fines imposed in circuit court cases. Potential minimal increase in local expenditures due to the bill’s expanded application of current incarceration penalties.

**Small Business Effect:** None.

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Analysis

**Current Law:** A person may not intentionally, willfully, and without authorization:

- access, attempt to access, cause to be accessed, or exceed his/her authorized access to a computer, computer network, computer control language, computer software, computer system, computer service, or computer database; or

- copy, attempt to copy, possess, or attempt to possess the content of all or part of a computer database accessed through unauthorized means.

Violators are guilty of a misdemeanor and are subject to maximum penalties of three years imprisonment and/or a \$1,000 fine. If a person engages in these activities with the intent to alter, damage, destroy, cause the malfunction of, or interrupt the operation of a computer or other specified computer-related features or services, the person is guilty of an offense for which the classification and penalties are dependent on the monetary value of the aggregate loss. If the aggregate loss is valued at \$10,000 or more, a violator is guilty of a felony, punishable by maximum penalties of imprisonment for up to 10 years and/or a maximum fine of \$10,000. If the aggregate loss is valued at less than \$10,000, a violator is guilty of a misdemeanor, punishable by imprisonment for up to five years and/or a maximum fine of \$5,000.

A person is also prohibited from intentionally, willfully, and without authorization (1) possessing, identifying, or attempting to identify a valid access code; or (2) publicizing or distributing a valid access code to an unauthorized person. If the aggregate loss is valued at \$10,000 or more, a violator is guilty of a felony and is subject to imprisonment for up to 10 years and/or a maximum fine of \$10,000. If the aggregate loss is valued at less than \$10,000, a violator is guilty of a misdemeanor and is subject to imprisonment for up to five years and/or a maximum fine of \$5,000.

Pursuant to Chapter 436 of 2010, a person may not engage in these prohibited activities with the intent to interrupt or impair the functioning of (1) State government; (2) a service provided in the State by a public service company; or (3) a natural gas or electric service, device, or system provided in the State by someone other than a public service company. In these instances, if the aggregate amount of the loss is \$50,000 or more, a violator is guilty of a felony and subject to imprisonment for up to 10 years and/or a maximum fine of \$25,000. If the aggregate loss is valued at less than \$50,000, a violator is guilty of a misdemeanor and is subject to imprisonment for up to five years and/or a maximum fine of \$25,000.

Access achieved in a prohibited manner under a single scheme or a continuing course of conduct may be considered one violation. A defendant may be tried in any county in Maryland where the act was performed or the accessed computer was located.

**Background:** 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. State law 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 1,000 VLTs in Allegany County (Rocky Gap State Park).

**Additional Comments:** State law requires the State Lottery Commission (through the State Lottery Agency) to own or lease VLT machines as opposed to ownership by the facility operators. The State Lottery Agency advises that although it purchased VLTs from various VLT manufacturers for two VLT casinos, it has most recently opted to lease VLTs as it provides more flexibility and options for the State Lottery Agency. It is assumed that since the bill only applies to a VLT or associated equipment *owned* by the State Lottery Commission, the leased VLTs are not covered by the bill.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore, Garrett, and Montgomery counties; Commission on Criminal Sentencing Policy; Comptroller's Office; Maryland State Lottery Agency; Office of the Public Defender; Department of Legislative Services

**Fiscal Note History:** First Reader - March 14, 2012  
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