

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 158
Budget and Taxation

(Senator Pugh, *et al.*)

Video Lottery Gaming - Table Games

This proposed constitutional amendment authorizes the holder of a video lottery operation license to offer table games, including poker, blackjack, craps, and roulette, to the public.

Fiscal Summary

State Effect: The proposed constitutional amendment does not provide for limitations on, or regulation of, table games at video lottery terminal (VLT) facilities, or for the distribution of any proceeds. It is assumed that additional legislation would be required to implement operation of table games at VLT facilities.

Local Effect: If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2012 general election. The amendment's requirements can be handled using existing resources within the local boards of elections.

Small Business Effect: None.

Analysis

Current Law: Except when specifically authorized, a gaming device is prohibited in the State if it is a gaming table, except a billiard table, at which a game of chance is played for money or any other thing or consideration of value; or a game or device at which money or any other thing or consideration of value is bet, wagered, or gambled. Gaming devices include a paddle wheel, wheel of fortune, chance book, and bingo.

A person may not bet, wager, or gamble; make or sell a book or pool on the results of a race, contest, or contingency; establish, keep, rent, use, or occupy, or knowingly allow to be established, kept, rented, used, or occupied, all or a part of a building, vessel, or place on land or water, within the State for the purpose of:

- betting, wagering, or gambling;
- making, selling, or buying books or pools; or
- receiving, becoming the depository of, or forwarding money or anything of consideration of value, to be bet, wagered, or gambled on the result of a race, contest, or contingency.

The State allows specified types of gambling, including the State lottery and wagering on horse racing. Bingo, bazaars, gaming nights, and raffles are allowed for some nonprofit organizations on a county-by-county basis. Several counties permit for-profit bingo. In addition, some nonprofit organizations in Eastern Shore counties are allowed to operate up to five slot machines, provided that at least one-half of the proceeds are distributed to a charity.

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 and Chapter 240 of 2011 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. Except for provisions related to the offering of food and beverages at facilities, the commission is required to ensure VLT licensees comply with the regulatory framework of the VLT program.

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). Chapter 240 of 2011 reduced the maximum allocation at Rocky Gap State Park to 1,000 VLTs.

Background: In a February 2010 letter to the Governor, the President of the Senate, and the Speaker of the House, the Location Commission suggested, among other things, that the Governor and the General Assembly may wish to consider whether legislation authorizing table games (*e.g.*, black jack), subject to voter approval, is warranted. The Location Commission cited strong competition from surrounding states for gambling dollars within the region.

Maryland's competition for gambling revenues is primarily from three surrounding states: Delaware, Pennsylvania, and West Virginia. Three racetrack facilities with slightly more than 7,000 VLTs are operating in Delaware, 10 facilities with approximately 26,800 VLTs are operating in Pennsylvania, and 5 facilities with slightly more than 10,000 VLTs are operating in West Virginia.

Limited numbers of VLTs (Limited Video Lottery, or LVL) are also available at licensed West Virginia bars, clubs, and fraternal organizations. In fiscal 2011, 7,889 of the 9,000 maximum authorized were operating at over 1,600 licensed locations throughout the state. In fiscal 2011, LVL generated a total of \$396.5 million in revenue, a win-per-day of \$138.

In early 2010, Delaware authorized table games for the state's three existing VLT racetrack facilities – Delaware Park, Dover Downs, and Harrington Raceway. Delaware requires 29.4% of table game revenue to be returned to the state, 4.5% of table game revenue be used to supplement horse racing purses, and the remaining 66.1% to be paid to the licensees. Delaware collects \$13.5 million in annual table game licensing fees based on the percentage of total VLT proceeds generated by each licensee. The Delaware fee structure rewards licensees for making capital improvements to their facilities; if a licensee makes qualified improvements worth \$2.5 million in a 12-month period, that licensee is permitted to reduce its annual fee by 50.0% to account for the cost of the capital project. The fees may be further reduced if Delaware's gross table game revenues meet or exceed \$80.0 million per year.

The first table games in Delaware began in May 2010. In fiscal 2011, Delaware's three facilities operated a total of 188 table games that generated \$74.1 million in total revenue, an average of \$394,173 per table game.

Under legislation passed in January 2010, most stand-alone VLT facilities and racetrack facilities with VLTs in Pennsylvania are authorized to have up to 250 table games. Each licensee is required to pay a one-time, \$16.5 million fee to operate table games, except that two smaller resort facility locations are limited to 50 table games per facility and

must pay a \$7.5 million fee. The Pennsylvania state tax on table games is currently 14%; the rate will decline to 12% on the second anniversary of the introduction of table games at a facility. In addition to the aforementioned state tax, licensees must pay an additional 2% tax to local jurisdictions.

Pennsylvania table gaming began in July 2010; as of August 2011, there were a total of 911 table games at 10 Pennsylvania facilities. In fiscal 2011, the 10 licensed facilities operated a total of 791 table games that generated \$508.3 million in total revenue, an average of \$678,235 per table game.

In 2007, West Virginia authorized the four existing VLT racetrack facilities to offer table games, subject to voter approval via local referendum. The Greenbrier Resort became the state's fifth VLT location with table games in 2009. West Virginia imposes a \$1.5 million initial license fee for table games along with a \$2.5 million annual renewal fee. The state tax is 35% of the licensee's adjusted gross table game revenues; these revenues are distributed to horsemen's purse and bred funds, state debt reduction efforts, counties and municipalities, and programs to support home health care for senior citizens. In fiscal 2011, the state's five licensed facilities operated a total of 350 table games that generated \$200.8 million in total revenue, an average of \$578,276 per table game.

Exhibit 1 includes a breakdown of fiscal 2011 gross gambling revenues in West Virginia, Delaware, and Pennsylvania. Only a portion of the gross revenue shown was distributed to each state as tax revenue.

Exhibit 1
Fiscal 2011 Gambling Revenues
Delaware, Pennsylvania, West Virginia

	<u>Delaware</u>	<u>Pennsylvania</u>	<u>West Virginia*</u>
Facilities	3	10	5
Total Gambling Revenue (\$ millions)	\$573.5	\$2,854.5	\$934.9

VLTs

VLTs	7,014	26,048	10,148
VLT Revenue (\$ millions)	\$499.4	\$2,346.2	\$734.1
Win-per-day	\$195	\$253	\$198

Table Games

Table Games	188	791	350
Table Game Revenue (\$ millions)	\$74.1	\$508.3	\$200.8
Table Game Average	\$394,173	\$678,235	\$578,276

*VLT figures for West Virginia do not reflect additional LVL revenues of \$396.5 million

Source: Delaware Lottery, Pennsylvania Gaming Control Board, West Virginia Lottery, Department of Legislative Services

Overall, a facility has about 30 table games for every 1,000 VLTs; this ratio is slightly higher at larger facilities. Table game and VLT revenues vary significantly based on the size of the facility. In general, larger facilities generate a higher average revenue for each VLT and table game at the facility, reflecting the larger draw of these facilities and fact that larger facilities are typically located in more populous areas. For example, each table game at a facility with less than 50 table games generated on average less than one-half of the revenue at the largest facilities. **Exhibit 2** shows the average fiscal 2011 VLT and table game revenues for facilities in the surrounding states, based on the number of table games at the facility.

Exhibit 2
Average VLT and Table Game Revenues by Number of Table Games
Delaware, Pennsylvania, West Virginia

	<u>All Facilities</u>	<u>Number of Table Games</u>			
		<u>26-50</u>	<u>51-75</u>	<u>76-100</u>	<u>Over 100</u>
Number of Facilities	17	4	6	4	3
VLTs	2,484	1,813	2,522	2,706	3,431
VLT Revenues (\$ millions)	\$197.80	\$119.70	\$176.20	\$244.10	\$380.10
Win-per-day	\$230	\$207	\$183	\$242	\$264
Table Games	72	49	64	88	114
Table Revenue (\$ millions)	\$37.60	\$17.50	\$31.30	\$49.50	\$95.00
Table Game Average	\$489,890	\$361,159	\$448,611	\$557,838	\$833,714

Source: Delaware Lottery, Pennsylvania Gaming Control Board, West Virginia Lottery, Department of Legislative Services

VLT Program Implementation

The 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 and currently is operating 800 VLTs. Power Plant Entertainment 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. Phase one of that facility is currently scheduled to open with approximately 3,000 VLTs in June 2012, with the full complement of 4,750 VLTs in operation by October 2012.

After licenses for the proposed VLT facilities in Allegany County and Baltimore City were not awarded in previous rounds of bidding, the Location Commission issued new Requests for Proposals (RFP) for those licenses earlier this year. On September 23, 2011, the Location Commission received three proposals for Allegany County and two proposals for Baltimore City. However, one proposal for Baltimore City

and two proposals for Allegany County were subsequently rejected by the Location Commission for failing to meet requirements contained in the RFPs. The Location Commission plans to make final decisions on the remaining proposals sometime in early 2012.

Through January 2012, Maryland VLT facilities have generated a total of \$196.2 million in revenues. Of this amount, \$95.1 million has been distributed to the Education Trust Fund. **Exhibit 3** shows the estimated distribution of VLT revenues through fiscal 2017. These estimates assume the Baltimore City and Allegany County facilities open in fiscal 2014.

Exhibit 3
Distribution of Estimated VLT Revenues in Maryland
(\$ in Millions)

	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
Education Trust Fund (48.5%)	\$78.1	\$254.4	\$386.2	\$483.4	\$513.3	\$523.6
Licensees (33%)	53.1	173.1	265.0	333.5	353.9	361.0
Local Impact Grants (5.5%)	8.9	28.9	43.6	54.4	57.8	58.9
Business Investment (1.5%)	2.4	7.9	11.9	14.8	15.8	16.1
Purse Dedication Account (7%) ¹	11.3	36.7	55.4	69.0	73.3	74.8
Racetrack Renewal (2.5%) ²	4.0	13.1	19.7	24.5	26.0	26.5
Lottery Operations (2%)	3.2	10.5	16.0	20.0	21.2	21.7
Total (100%)	\$161.0	\$524.6	\$797.8	\$999.6	\$1,061.3	\$1,082.6

¹Up to \$100 million annually.

²Up to \$40 million annually for eight years, after which the monies accrue to the Education Trust Fund. Chapter 624 of 2010 and Chapter 240 of 2011 altered provisions regarding the authorized VLT facility in Allegany County. Contingent upon the purchase of the Rocky Gap Lodge and Golf Resort by the licensee, the operator will receive for the first ten years of operations 50% of proceeds, distributions to other funds are decreased correspondingly. For more detail please see the fiscal and policy note for SB 512 of 2011.

Source: Department of Legislative Services

State Fiscal Effect: The bill authorizes the holder of a video lottery operation license to offer table games. However, the bill does not specify the total number of table games that may be awarded, the maximum number per facility or distribution thereof, or the amount of State tax levied, if any.

Based on the casino data for surrounding states and Illinois, Indiana, and Iowa analyzed by the Department of Legislative Services (DLS) and the current VLT forecast, and SB 158/ Page 7

for illustrative purposes only, **Exhibit 4** shows the potential total revenue generated, before any distributions, from 350 total table games, which assumes that facilities will have a similar number of table games as in other states. The amount of revenue which might be allocated to State or local governments will need to be determined by implementing legislation.

Exhibit 4
Potential Table Game Revenues – Total Gross Revenues Before Distribution
(\$ in Millions)

<u>Total Table Games</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
350	\$0	\$158.3	\$197.8	\$213.4	\$216.0

It is assumed that there is about a six-month implementation delay between approval of table games and introduction of table games at VLT facilities. This estimate is also based on the current VLT forecast and estimated correlation between VLT revenues and table game revenues at existing casinos. DLS advises that the actual amount of revenue will depend on the number, distribution, and type of table games awarded.

Additional Information

Prior Introductions: SB 243 of 2011 received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. HB 608 of 2010 received a hearing in the House Ways and Means Committee, but no further action was taken. Its cross file, SB 795, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

Cross File: None.

Information Source(s): Delaware Lottery, Illinois Gaming Board, Indiana Gaming Commission, Iowa Racing and Gaming Commission, Maryland State Lottery Agency, Pennsylvania Gaming Control Board, West Virginia Lottery, Department of Legislative Services

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Analysis by: Robert J. Rehrmann

Direct Inquiries to:
(410) 946-5510
(301) 970-5510