

Department of Legislative Services
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 319 (Senators Young and Brinkley)
Budget and Taxation

Frederick County - Slot Machines for Nonprofit Organizations

This bill adds Frederick County to the list of 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 proceeds must go to charity and the remainder to further the organizations' purposes.

The bill takes effect June 1, 2012.

Fiscal Summary

State Effect: Potential decrease in special fund revenues and expenditures from the Video Lottery Terminal (VLT) Program beginning in FY 2013. Under one set of assumptions, State revenues may decrease by \$130,000 annually, with approximately half of the revenue loss needing to be replaced with general funds to support mandated expenses. Comptroller's Office special fund revenues and expenditures each increase annually beginning in FY 2013 by approximately \$3,500 due to regulation of slot machines.

Local Effect: Potential minimal decrease in local impact grants distributed to certain counties from the VLT program beginning in FY 2013. Frederick and nearby counties could experience decreased revenue from paper gaming due to competition from slot machines. County expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law: 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.

Chapter 315 of 2011 added Worcester County (except a specified area within Ocean City) to the list of 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. Pursuant to Chapter 315, the Comptroller's Office must regulate the specified slot machines and charge a license fee to cover the costs of regulating the machines.

A qualified 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 on the income of each machine and the disposition of these proceeds.

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. 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 number of VLTs that may be awarded to Allegany County to 1,000 while changing other provisions of law regarding a VLT site in Allegany County.

Background: In fiscal 2011, 60 nonprofit organizations on the Eastern Shore operated slot machines. Unaudited reports with complete data were available for 56 of the organizations. The total amount bet at these 56 organizations was approximately \$42.3 million, 88% of which was returned to gamblers. Of the approximately \$5.2 million in proceeds after payouts, \$2.6 million (50%) was disbursed to charity. The Department of Legislative Services (DLS) notes that in reviewing the fiscal 2011 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. **Exhibit 1** shows the slot machine “handle” (or amount bet) by county for 57 organizations (one of which did not submit a complete set of data). The Comptroller’s Office assesses a \$50 license fee per slot machine to cover costs for regulating their operation.

Exhibit 1
Slot Machine Handle for Eastern Shore Counties
Fiscal 2011
(\$ in Millions)

<u>County</u>	<u>Slot Machines</u>	<u>Handle</u>
Caroline	20	\$1.8
Cecil	45	13.7
Dorchester	25	3.4
Kent	25	1.6
Queen Anne’s	35	7.2
Somerset	35	1.8
Talbot	25	2.7
Wicomico	60	11.4
Worcester	10	0.2
Total	280	\$43.8

Source: Department of Legislative Services

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 for fiscal 2008) that in fiscal 2008, 273 slot machines on the Eastern Shore generated \$54.8 million in total handle.

Paper Gaming

Paper gaming is a game of chance in which prizes are awarded, and the devices used to play the game are constructed of paper. The most common forms of paper gaming are punchboards, instant bingo, and tip jars. A punchboard is a square piece of wood or cardboard with dozens or hundreds of holes punched in it, each filled with a piece of paper with numbers or symbols printed on it. The holes are covered with foil or paper, and players pay for the right to punch one or more holes. If the numbers or symbols on their slips of paper match a winning combination, they receive a prize, either cash or another item. Tip jars dispense instant winning game tickets similar to scratch lottery games.

Paper gaming provides two sources of revenues to counties: the sale of paper gaming licenses and tickets to operators, and taxes on paper gaming sales. The State Lottery Agency advises that paper gaming occurs in at least 15 Maryland counties, and is most prevalent in Allegany, Frederick, Garrett, and Washington counties.

VLT Program Implementation

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 and currently operates 800 VLTs. Power Plant Entertainment Casino Resorts, LLC plans to open its VLT facility adjacent to Arundel Mills Mall in Anne Arundel County in June 2012. The licenses for Baltimore City and Allegany County have yet to be awarded.

State Fiscal Effect: State special fund revenues and expenditures may be reduced, depending on the degree to which eligible nonprofits in Frederick County are licensed to operate and implement slot machines. These machines may serve as a substitute for gambling at VLT facilities in the State, though they would likely have little impact on the Worcester County VLT facility due to its distance from Frederick 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 \$94,700 (*i.e.*, total handle minus total amount returned to players) per organization. The bill will add an estimated 14 organizations offering slots play; assuming 5 machines at each results in 70 slot machines generating approximately \$1.3 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 \$130,000 in special fund revenues. The impact to the State includes a \$63,050 reduction in Education Trust Fund revenues and a \$2,600 loss in revenues for State lottery administration of the VLT program. These lost revenues will 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 \$130,000 illustrated above and based on the distribution of VLT revenues from facilities other than Rocky Gap.

Exhibit 2
Illustration of Reduced VLT Program Distribution

Education Trust Fund (48.5%)	\$63,050
Licensees (33%)	42,900
Purse Dedication Account (7%)	9,100
Local Impact Grants (5.5%)	7,150
Racetrack Renewal (2.5%)	3,250
Lottery Operations (2%)	2,600
Minority Business Investment (1.5%)	1,950
Total Reduction	\$130,000

Given the addition of approximately 70 slot machines and a license fee of \$50 per machine, special fund revenues increase by approximately \$3,500 annually beginning in fiscal 2013. Special fund expenditures increase by an equivalent amount at the Comptroller's Office beginning in fiscal 2013 due to increased administrative costs for regulating slot machines operated by eligible organizations.

Additional Information

Prior Introductions: None.

Cross File: Though not listed as a cross file, HB 151 is identical.

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

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mlm/rhh

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