

# SENATE BILL 3

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CF 3lr3501

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By: **Senator Middleton**

Introduced and read first time: August 9, 2012

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Video Lottery Terminals and Table Games – Expansion**

3 FOR the purpose of authorizing the awarding of an additional video lottery operation  
4 license and a certain number of additional video lottery terminals for a video  
5 lottery facility in Charles County in a vessel moored to a pier on the Potomac  
6 River; repealing a certain prohibition against an individual or a business entity  
7 owning an interest in more than one video lottery facility; repealing certain  
8 prohibitions against a video lottery operation licensee providing food or alcoholic  
9 beverages to individuals at no cost; altering the amount the Comptroller pays to  
10 a video lottery operation licensee from the proceeds of video lottery terminals;  
11 repealing a certain prohibition against a holder of a video lottery operation  
12 license or any other person with a certain interest in the Ocean Downs  
13 racetrack or video lottery facility from building or operating certain structures  
14 within a certain location or offering to patrons of the video lottery facility the  
15 playing of live music or certain other live entertainment under certain  
16 conditions; authorizing the holder of a video lottery operation license to offer  
17 table games in the State; specifying certain distributions of proceeds of table  
18 games; prohibiting the charging of a certain license fee; specifying the types of  
19 table games that may be authorized in the State; authorizing the State Lottery  
20 Commission to determine the suitability of certain table games under certain  
21 circumstances; requiring certain legislation under certain circumstances;  
22 making a certain technical correction; submitting this Act to a referendum of  
23 the qualified voters of the State; and generally relating to gaming in the State.

24 BY repealing and reenacting, with amendments,  
25 Article – State Government  
26 Section 9–1A–05(a) and (d), 9–1A–24, 9–1A–27, and 9–1A–36(f), (h), (i)(1), and  
27 (q)(1)  
28 Annotated Code of Maryland  
29 (2009 Replacement Volume and 2012 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – State Government**

4 9–1A–05.

5 (a) The Video Lottery Facility Location Commission established under §  
6 9–1A–36 of this subtitle may not:

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

8 (2) award more than ~~[15,000]~~ **16,500** video lottery terminals for  
9 operation at video lottery facilities in the State;

10 (3) subject to the requirements of § 9–1A–36(h) and (i) of this subtitle,  
11 award more than 4,750 terminals for operation at any video lottery facility; and

12 (4) for a location in Allegany County:

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

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

18 (d) (1) In this subsection, “owner” includes any type of owner or  
19 beneficiary of a business entity, including an officer, director, principal employee,  
20 partner, investor, stockholder, or beneficial owner of the business entity and,  
21 notwithstanding any other provisions of this subtitle, including a person having any  
22 ownership interest regardless of the percentage of ownership interest.

23 (2) An individual or business entity may ~~[not]~~ own an interest in more  
24 than one video lottery facility.

25 (3) A member of the Senate of Maryland or the House of Delegates  
26 may not be an owner or an employee of any business entity that holds a video lottery  
27 operation license.

28 (4) Notwithstanding paragraphs (1) and (2) of this subsection, an  
29 individual or business entity may enter into a management agreement to operate a  
30 facility located in Allegany County that it does not own, subject to the approval of the  
31 Video Lottery Facility Location Commission and the State Lottery Commission.

32 9–1A–24.

1           (a) ~~【Except as provided in subsection (b) of this section, the】~~ **THE**  
2 Commission shall ensure that a video lottery operation licensee complies with the  
3 requirements of this section as a condition of holding the video lottery operation  
4 license.

5           **[(b) (1)]** The county alcoholic beverages licensing authority for the county  
6 in which a video lottery facility is located shall ensure that the video lottery licensee  
7 complies with the requirements of this subsection.

8           (2) Except as provided in paragraph (4) of this subsection, a video  
9 lottery operation licensee may not provide food or alcoholic beverages to individuals at  
10 no cost.

11           (3) Any food or alcoholic beverages offered by a video lottery operation  
12 licensee for sale to individuals may be offered only at prices that are determined by  
13 the county alcoholic beverages licensing authority to be commensurate with the price  
14 of similar types of food and alcoholic beverages at restaurants in the county in which  
15 the video lottery facility is located.

16           (4) A video lottery operation licensee may provide food at no cost to  
17 individuals to the same extent allowed under Article 2B, § 12–106 of the Code for a  
18 person engaged in the sale or barter of spirituous, malt, or intoxicating liquors and  
19 licensed under the laws of Maryland.]

20           **[(c) (B)]** A video lottery operation licensee shall ensure that intoxicated  
21 individuals and individuals under the age of 21 years are not allowed to play video  
22 lottery terminals and are not allowed in areas of the video lottery facility where video  
23 lottery terminals are located.

24           **[(d) (C)]** (1) By regulation, the Commission shall provide for the  
25 establishment of a list of individuals who are to be mandatorily excluded or ejected by  
26 a video lottery operation licensee from any video lottery operation licensed under this  
27 subtitle.

28           (2) The regulations under this subsection shall define the standards  
29 for exclusion or ejection and shall include standards relating to individuals:

30                   (i) who are career offenders as defined by regulations adopted  
31 by the Commission;

32                   (ii) who have been convicted of a criminal offense under the  
33 laws of the United States or any jurisdiction within the United States that is a  
34 criminal offense involving moral turpitude or a gambling offense; or

35                   (iii) whose presence in the establishment of a licensee would be  
36 adverse to the interest of the State, the licensee, or the person.

1           (3)     The Commission may impose sanctions on a licensee in accordance  
2 with this subtitle if the licensee knowingly fails to exclude or eject from the premises  
3 of the licensee an individual placed by the Commission on the list of individuals to be  
4 excluded or ejected.

5           (4)     An order under this subsection is subject to judicial review.

6           **[(e)] (D)**     (1)     By regulation, the Commission shall adopt measures that  
7 are intended to reduce or mitigate the effects of problem gambling.

8           (2)     The regulations shall:

9                     (i)     include establishment of a voluntary exclusion list of  
10 individuals with gambling problems who have requested to be excluded from any video  
11 lottery operation licensed under this subtitle; and

12                    (ii)    provide a simple mechanism for an individual who is sober  
13 and informed to request placement on the voluntary exclusion list for a specified  
14 period of time.

15           (3)     A video lottery operation licensee may not permit an individual on  
16 the voluntary exclusion list to enter into the video lottery facility or to play a video  
17 lottery terminal.

18           (4)     The Commission may impose sanctions on a licensee in accordance  
19 with this subtitle if the licensee knowingly fails to exclude from the premises of the  
20 licensee an individual on the voluntary exclusion list.

21           **[(f)] (E)**     In order to protect the public interest, the regulations shall include  
22 provisions that:

23                     (1)     limit the number and location of and maximum withdrawal  
24 amounts from automated teller machines;

25                     (2)     require payouts above an amount adopted by the Commission to be  
26 made by check;

27                     (3)     require conspicuous disclosures related to the payout of video  
28 lottery terminals;

29                     (4)     limit the dollar amount that video lottery terminals will accept;

30                     (5)     prohibit the use of specified negotiable instruments at video lottery  
31 facilities and the use of credit cards, debit cards, and similar devices in video lottery  
32 terminals;

1           (6)     provide consumers with a record of video lottery terminal spending  
2 levels if marketing measures are utilized that track consumer spending at video  
3 lottery facilities;

4           (7)     prohibit consumers from cashing paychecks at video lottery  
5 facilities; and

6           (8)     prohibit video lottery operation licensees from engaging in or  
7 contracting with another to engage in predatory marketing practices.

8           **[(g)] (F)**     (1)     A video lottery operation licensee may not, directly or  
9 indirectly, interfere with, hinder, obstruct, impede, or take any action to delay the  
10 implementation or establishment of a video lottery facility by any other licensee or  
11 applicant for a video lottery operation license awarded or issued under this subtitle.

12           (2)     (i)     The Commission shall adopt regulations, to the fullest  
13 extent allowed by the first amendment of the Constitution of the United States, to  
14 carry out the provisions of this subsection.

15                     (ii)     The regulations adopted under this subsection shall include  
16 provisions:

17                             1.     that expressly prohibit:

18                                     A.     taking any of the actions described in paragraph (1) of  
19 this subsection relating to the issuance of required State or local governmental  
20 approvals for the establishment of a video lottery facility; or

21                                     B.     providing funding or other material support to engage  
22 in any of the actions described in paragraph (1) of this subsection;

23                             2.     that prohibit, as unlawful indirect conduct, activity:

24                                     A.     by an entity in which the licensee owns a beneficial or  
25 proprietary interest; or

26                                     B.     by an entity in which an affiliate of the licensee owns  
27 a beneficial or proprietary interest; and

28                             3.     that allow the Commission to impose sanctions and  
29 penalties in accordance with § 9-1A-25 of this subtitle if a licensee knowingly violates  
30 paragraph (1) of this subsection.

31     9-1A-27.

32           (a)     Except as provided in subsection (b) of this section, on a properly  
33 approved transmittal prepared by the Commission, the Comptroller shall pay the

1 following amounts from the proceeds of video lottery terminals at each video lottery  
2 facility:

3 (1) 2% to the State Lottery Agency for costs as defined in § 9–1A–01 of  
4 this subtitle;

5 (2) **40%** to the video lottery operation licensee[, the percentage stated  
6 in the accepted application for the location, not to exceed 33%];

7 (3) 5.5% in local impact grants, in accordance with § 9–1A–31 of this  
8 subtitle;

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

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

14 (6) 1.5% to the Small, Minority, and Women–Owned Businesses  
15 Account established under § 9–1A–35 of this subtitle; and

16 (7) the remainder to the Education Trust Fund established under §  
17 9–1A–30 of this subtitle.

18 (b) (1) For the first 10 years of operations at a video lottery facility in  
19 Allegany County, on a properly approved transmittal prepared by the Commission, the  
20 Comptroller shall pay the following amounts from the proceeds of video lottery  
21 terminals at a video lottery facility in Allegany County:

22 (i) 2% to the State Lottery Agency for costs as defined in §  
23 9–1A–01 of this subtitle;

24 (ii) to the video lottery operation licensee, the percentage stated  
25 in the accepted application for the location, not to exceed 50%;

26 (iii) 2.75% in local impact grants, in accordance with § 9–1A–31  
27 of this subtitle;

28 (iv) 2.5% to the Purse Dedication Account established under §  
29 9–1A–28 of this subtitle;

30 (v) 0.75% to the Small, Minority, and Women–Owned  
31 Businesses Account established under § 9–1A–35 of this subtitle; and

32 (vi) the remainder to the Education Trust Fund established  
33 under § 9–1A–30 of this subtitle.

1           (2) After the first 10 years of operations at a video lottery facility in  
2 Allegany County, the proceeds generated at the facility in Allegany County shall be  
3 allocated as provided in subsection (a) of this section.

4           (c) (1) If the costs of the State Lottery Agency are less than the proceeds  
5 specified in subsection (a)(1) of this section, any amount not distributed to the State  
6 Lottery Agency shall be paid to the Education Trust Fund established under §  
7 9–1A–30 of this subtitle.

8           (2) The costs of the Commission shall be as provided in the State  
9 budget.

10 9–1A–36.

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

15           (h) (1) In order to qualify for a video lottery operation license under this  
16 section, a proposed video lottery facility shall be located in one of the following  
17 counties:

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

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

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

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

25                   (v) a location in Baltimore City that is:

26                           1. located:

27                                   A. in a nonresidential area;

28                                   B. within one-half mile of Interstate 95;

29                                   C. within one-half mile of MD Route 295; and

30                                   D. on property that is owned by Baltimore City on the  
31 date on which the application for a video lottery operation license is submitted; and





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

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

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

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

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

11                               **(IV) A LOCATION IN CHARLES COUNTY – 1,500 VIDEO**  
12 **LOTTERY TERMINALS;**

13                               ~~[(iv)]~~ **(V)** a location in Rocky Gap State Park (Allegany County)  
14 – 1,000 video lottery terminals; and

15                               ~~[(v)]~~ **(VI)** a location in Worcester County – 2,500 video lottery  
16 terminals.

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

20                   SECTION 2. AND BE IT FURTHER ENACTED, That:

21           (a)   (1) The State may authorize a holder of a video lottery operation  
22 license under Article XIX of the Maryland Constitution to offer table games to the  
23 public in the State.

24                   (2) On a properly approved transmittal prepared by the State Lottery  
25 Commission, the Comptroller shall pay the proceeds from table games at each video  
26 lottery facility to the licensee of the facility.

27                   (3) A holder of a video lottery operation license who offers table games  
28 may not be charged a license fee.

29           (b)   Subject to subsection (c) of this section, table games authorized under  
30 subsection (a) of this section may include:

31                   (1) roulette, baccarat, blackjack, craps, big six wheel, minibaccarat,  
32 poker, pai gow poker, and sic bo, or any variation and composites of such games; and

1           (2) gaming tournaments in which players compete against one another  
2 in one or more of the games authorized under item (1) of this subsection.

3           (c) The State Lottery Commission may determine the suitability of:

4           (1) the use of any variations or composites of the table games under  
5 subsection (b) of this section after an appropriate test or experimental period under  
6 terms and conditions that the Commission may deem appropriate; and

7           (2) any other game that is compatible with the public interest and  
8 suitable for casino use after an appropriate test or experimental period deemed  
9 appropriate by the Commission.

10           SECTION 3. AND BE IT FURTHER ENACTED, That the provisions of Sections  
11 1 and 2 of this Act authorize the Video Lottery Facility Location Commission to award  
12 one video lottery facility operation license in Charles County, and also authorize a  
13 video lottery operation licensee to offer table games in the State, with both  
14 authorizations subject to a referendum of the qualified voters of Maryland as provided  
15 in Section 4 of this Act, and upon voter approval of this Act at the general election to  
16 be held in November of 2012, legislation shall be required to provide for the operation  
17 and regulation of table games at a licensed video lottery facility in the State.

18           SECTION 4. AND BE IT FURTHER ENACTED, That before this Act, which  
19 authorizes additional forms and an expansion of commercial gaming, becomes effective  
20 it shall first be submitted to a referendum of the qualified voters of the State at the  
21 general election to be held in November of 2012, in accordance with Article XIX, § 1(e)  
22 of the Maryland Constitution. The State Board of Elections shall do those things  
23 necessary and proper to provide for and hold the referendum required by this section.  
24 If a majority of the votes cast on the question are “For the referred law” the provisions  
25 of this Act shall become effective on the 30th day following the official canvass of votes  
26 for the referendum, but if a majority of the votes cast on the question are “Against the  
27 referred law” the provisions of this Act are of no effect and null and void.

28           SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions  
29 of Section 4 of this Act and for the sole purpose of providing for the referendum  
30 required by Section 4 of this Act, this Act shall take effect August 15, 2012.