

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

House Bill 646  
Ways and Means

(Montgomery County Delegation)

Budget and Taxation

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Gaming - Instant Ticket Lottery Machines - Veterans' Organizations  
MC 5-13

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This bill removes Montgomery County from a list of exempted counties, thus authorizing the State Lottery and Gaming Control Agency (SLGCA) to issue qualifying veterans' organizations in Montgomery County a license for up to five instant ticket lottery (pull tab) machines.

The bill also clarifies that SLGCA must ensure that the element of chance in the conduct of gaming through the instant ticket lottery machines is consistent with the holding in the case of *Chesapeake Amusements Inc. v. Riddle*, 363 Md. 16 (2001), in that the element of chance must be wholly within the pre-printed instant lottery ticket, and that player enhancements in an instant ticket lottery machine may not affect the element of chance being wholly within the pre-printed instant lottery ticket.

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Fiscal Summary

**State Effect:** General fund revenues increase due to the distribution of proceeds from electronic pull tab machines in Montgomery County beginning in FY 2014. Potential decrease in special fund revenues and expenditures from the Video Lottery Terminal (VLT) Program beginning in FY 2014. Maryland Veterans Trust Fund (MVTF) special fund revenues increase beginning in FY 2015. SLGCA can enforce the bill's provisions with existing resources.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful. Licensed State lottery agents in the vicinity of a veterans' organization licensed for lottery ticket terminals may be adversely affected by decreased sales and commissions in Montgomery County. Small businesses that sell and distribute pull tabs and pull tab machines benefit.

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## Analysis

**Current Law:** Chapter 1 of the 2012 second special session (SB 1) authorizes SLGCA to issue certain veterans' organizations a license for up to five instant ticket lottery (pull tab) machines. Veterans' organizations in counties on the Eastern Shore and in Montgomery County are not eligible.

A licensed veterans' organization must locate and operate its pull tab machines at its principal meeting hall in the county. After deductions for commissions and prize payouts, the proceeds go to the general fund. Beginning July 1, 2014, 10% of the proceeds will be distributed to the MVTF. A licensed veterans' organization must purchase or lease the pull tab machines from SLGCA, but may not use receipts from the sale of pull tabs that would otherwise go to the general fund to purchase or lease the machines.

Chapter 1 also requires SLGCA to ensure that the conduct of gaming and the operation of the pull tab machines authorized by the bill are consistent with the holding in the case of *Chesapeake Amusements Inc. v. Riddle*, 363 Md. 16 (2001).

Under legislation enacted in 1987, 2007, and 2011, qualified nonprofit organizations including veterans' organizations located in Eastern Shore counties are authorized to apply for a license to operate up to five slot machines at their organizations' principle location.

### *MVTF*

Chapter 742 of 2009 (HB 1561) established MVTF, which consists of gifts and grants received by the Maryland Department of Veterans Affairs (MDVA). Money in the fund may be used to make grants and loans to veterans and their families, support public and private programs that serve veterans in the State, or support the Charlotte Hall Veterans Home. Money in the fund may also be used to invest in general obligations of the State or other securities, pay for the cost of administering the fund, or support any other programs that the Secretary of Veterans Affairs considers appropriate. Money expended from the fund is supplemental to and is not intended to take the place of funding otherwise appropriated to MDVA.

**Background:** **Appendix – Local Gaming** provides detailed background on local gaming in Maryland.

**State Fiscal Effect:** The provisions of the bill authorizing veterans' organizations in Montgomery County to apply for licenses for up to five pull tab machines take effect October 1, 2013. However, it is assumed that the licensing and machine procurement

process will take approximately five months. Therefore, the general fund receives a partial year of proceeds from pull tab machines beginning in fiscal 2014, after deducting payments to licensed agents (veterans' organizations) and Lottery Agency administrative expenses. Beginning in fiscal 2015, 10% of proceeds are distributed to the MVTF, leaving 90% for the general fund.

The impact on general fund and special fund revenues and expenditures will depend on the number of war veterans' organizations that operate authorized pull tab machines in Montgomery County, their location with respect to VLT facility locations, the actual payout rates on pull tabs that are offered, and the degree to which pull tab machines authorized by the bill constitute a substitute for VLT gambling in the State. Although these impacts cannot be determined at this time, they are likely to generate minimal increased revenues for the MVTF and the general fund, offset by minimal decreases in special fund revenues from VLTs.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 918 (Senator Garagiola, *et al.* –Rules).

**Information Source(s):** Comptroller's Office, Maryland State Lottery and Gaming Control Agency, Montgomery County, Department of Veterans Affairs, Department of Legislative Services

**Fiscal Note History:** First Reader - March 4, 2013  
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## Appendix – Local Gaming

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### *Eastern Shore Slot Machines*

Generally, it is a misdemeanor crime to possess or operate a slot machine in Maryland. However, legislation was enacted in 1987, 2007, and 2011 authorizing certain nonprofit organizations to operate slot machines in the nine Eastern Shore counties: Caroline, Cecil, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester (except a specified area within Ocean City).

Each county is responsible for regulating gaming activities conducted by civic and charitable organizations. 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 five years but have been located within an eligible county for at least 50 years before applying for a license. Pursuant to Chapter 315 of 2011, 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.

**Exhibit 1** shows the slot machine “handle” (or amount bet) by county for 65 organizations in fiscal 2012. The total amount bet was \$56.6 million, 89% of which was returned to gamblers. The Comptroller’s Office assesses a \$50 license fee per slot machine to cover costs for regulating their operation.

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**Exhibit 1**  
**Slot Machine Handle for Eastern Shore Counties**  
**Fiscal 2012**  
**(\$ in Millions)**

<u>County</u>	<u>Slot Machines</u>	<u>Handle</u>
Caroline	15	\$2.1
Cecil	45	12.5
Dorchester	35	5.3
Kent	25	2.0
Queen Anne's	33	10.6
Somerset	35	1.7
Talbot	25	3.3
Wicomico	58	14.0
Worcester	33	5.1
<b>Total</b>	<b>304</b>	<b>\$56.6</b>

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In reviewing past filings, the Department of Legislative Services (DLS) noted that several organizations were not in compliance with the 50% charity requirement or misclassified some contributions as charitable.

*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 and Gaming Control Agency advises that paper gaming occurs in at least 15 Maryland counties and is most prevalent in Allegany, Frederick, Garrett, and Washington counties.

### *Electronic Gaming*

An electronic bingo or electronic tip jar is a game played in an electronic or electro-mechanical device that contains predetermined winning and losing games and signals the issuance of a winning play. Examples include (but are not limited to):

- electronic devices utilizing paper bingo or tip jar tickets; and
- electronic devices utilizing computer chips that simulate paper bingo or tip jar tickets that, when played by a customer, determine the outcome of winning or losing that is not random or subject to change, but is based on a predetermined set of winning or losing numbers.

Facilities operating electronic bingo are located primarily in Anne Arundel and Calvert counties. An entity licensed to offer instant bingo under a commercial bingo license on July 1, 2007, or by a qualified nonprofit organization may continue to operate a game of instant bingo in the same manner using electronic machines, provided that:

- the machines were in operation for a one-year period ending December 31, 2007, or under a commercial bingo license on December 31, 2007;
- the entity does not operate more than the number of machines in operation on February 28, 2008; and
- the conduct of the gaming and operation of the machines are consistent with all other provisions of the Criminal Law Article.

Basic electronic pull tab dispensers are currently available at a cost ranging from about \$2,500 to \$5,000 each, and manual lock and key dispensers are available for as low as \$150. Price points on pull tab games typically range from 25 cents to \$2.00. Information from other states indicates a payout rate of approximately 66% on pull tabs, meaning that two-thirds of the amount bet is returned to gamblers (considerably lower than the average payout of about 88% for Eastern Shore slot machines).

### *Prohibited Gaming*

In *Chesapeake Amusements Inc. v. Riddle*, the Maryland Court of Appeals took up the issue of “whether a dispensing machine with a video screen that displays the contents of the tickets that it dispenses and emits a musical tone that signals when a winning ticket is being dispensed is a ‘slot machine,’” as defined by Maryland law. The Court of Appeals found that the machine in question was not a slot machine. In response to this decision, Chapter 474 of 2008 altered the definition of “slot machine” to include a machine that reads a game of chance and a machine that delivers a game of chance.

Chapter 474 of 2008 also prohibited certain gaming machines licensed by local jurisdictions, primarily electronic bingo and tip jar machines, from operating after July 1, 2009. Chapter 661 of 2009 extended this termination date to July 1, 2012, and Chapter 603 of 2012 made permanent the authority for certain existing qualified organizations and licensed commercial bingo licensees to operate electronic instant bingo machines that would otherwise be illegal under State law after July 1, 2012. Under Chapter 603, the State Lottery and Gaming Control Commission must regulate certain electronic gaming devices and determine if they are operating lawfully. A gaming device that is not compliant by January 1, 2013, is an illegal gaming device that may not legally operate in the State.

The law also provides for exceptions for certain machines that are not considered slot machines:

- machines that award the user additional free games;
- machines that are arcade-type games that provide noncash prizes of minimal value; and
- paper pull tab tip jars and paper pull tab instant bingo tickets that must be opened manually as long as the machine does not electronically read the ticket, does not alert the user to winnings, or does not tabulate the winnings.

Personal electronic bingo machines are also excluded as long as the machine does not allow a person to play more than 54 cards at one time. State lottery machines that dispense lottery tickets and video lottery terminals are also excluded.

### *Veterans' Organizations*

During the 2012 second special session, the General Assembly adopted Chapter 1 (Senate Bill 1), which was approved by voter referendum at the November 2012 general election. Chapter 1 authorizes the State Lottery and Gaming Control Agency to issue certain veterans' organizations a license for up to five instant ticket lottery (pull tab) machines. Veterans' organizations in counties on the Eastern Shore and in Montgomery County are not eligible. After deductions for commissions (to the veterans' organizations) and prize payouts, the proceeds go to the State general fund. Beginning July 1, 2014, 10% of the proceeds will be distributed to the Maryland Veterans Trust Fund.