

Department of Legislative Services
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 36

(Senator Young)

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, 2013.

Fiscal Summary

State Effect: Potential decrease in special fund revenues and expenditures from the Video Lottery Terminal (VLT) Program beginning in FY 2014. Under one set of assumptions, State revenues may decrease by \$150,000 annually, with approximately half of the revenue loss needing to be replaced with general funds to support mandated expenses. Comptroller's Office general fund revenues increase annually beginning in FY 2014 by approximately \$3,750 due to slot machine license fees.

Local Effect: Potential minimal decrease in local impact grants distributed to certain counties from the VLT program beginning in FY 2014. 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: Eligible nonprofit fraternal, religious, and war veterans' organizations may own and operate up to five slot machines at its principal meeting hall in Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester

counties. At least one-half of the proceeds must go to charity and the remainder to further the organizations' purposes. The proceeds must not financially benefit an individual, and the organizations must report annually income of the slot machines to the Comptroller.

Furthermore, the State Lottery and Gaming Control Agency may issue certain veterans' organizations a license for up to five instant ticket lottery (pull tab) machines, not including counties on the Eastern Shore and in Montgomery County.

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

The General Assembly has authorized six video lottery operation licenses in Baltimore City and Allegany, Anne Arundel, Cecil, Prince George's, and Worcester counties with a maximum number of 16,500 VLTs allotted in the State. Licensees are also authorized to operate table games in the facilities with the approval of the State Lottery and Gaming Control Commission. Penn Cecil in Cecil County, Ocean Downs in Worcester County, and Maryland Live in Anne Arundel County are open to the public, while a VLT facility at the Rocky Gap Lodge and Resort in Allegany County is expected to open by mid 2013 and a facility in Baltimore City is scheduled to open in mid 2014. The Video Lottery Facility Location Commission may award a license for a Prince George's County facility to begin operations the earlier of July 1, 2016, or 30 months after the VLT facility in Baltimore City is open to the public.

State Fiscal Effect: Slot machines in Frederick County may serve as a substitute for gambling at VLT facilities in the State, thus reducing State special fund revenues and expenditures. However, the machines 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 could shift spending from other activities, a portion of which are taxable by the State. The Department of Legislative Services 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 \$100,000 (*i.e.*, total handle minus total amount returned to players) per organization. The bill will add an estimated 15 organizations offering slot machines; assuming 5 machines at each results in 75 slot machines generating approximately \$1.5 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 \$150,000 in special fund revenues. The impact to the State includes a \$73,875 reduction in Education Trust Fund revenues and a \$3,000 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 (until fiscal 2015). **Exhibit 1** shows the reduction in special fund distributions from the total reduction of \$150,000 illustrated above and based on the distribution of VLT revenues from facilities other than in Worcester County in fiscal 2014.

Exhibit 1
Illustration of Reduced VLT Program Distribution
Fiscal 2014

Education Trust Fund (49.25%)	\$73,875
Licenses (33%)	49,500
Purse Dedication Account (7%)	10,500
Local Impact Grants (5.5%)	8,250
Racetrack Renewal (1.75%)	2,625
Lottery Operations (2%)	3,000
Minority Business Investment (1.5%)	2,250
Total Reduction	\$150,000

Given the addition of approximately 75 slot machines and a license fee of \$50 per machine, general fund revenues increase by approximately \$3,750 annually beginning in fiscal 2014.

Additional Information

Prior Introductions: SB 319 of 2012 received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. HB 151 of 2012 received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None designated; however, HB 175 (Frederick County Delegation – Ways and Means) and SB 314 (Senators Brinkley and Young – Budget and Taxation) are identical.

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

Fiscal Note History: First Reader - January 28, 2013
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Analysis by: Heather N. Ruby

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

Appendix – Local Gaming

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 5 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.

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
Total	304	\$56.6

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.