

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 989
Ways and Means

(Delegates Buckel and Hornberger)

Gaming - Wagering on Sporting Events - Study and Implementation

This bill establishes a Task Force to Study the Implementation of Sports Gaming in the State, staffed by the State Lottery and Gaming Control Agency (SLGCA). If the federal Professional Amateur Sports Protection Act (PASPA) is altered or amended in a manner that does not prohibit the State from allowing wagering on sporting events, or if a federal court or the U.S. Department of Justice determines that PASPA does not prohibit it, the bill authorizes, subject to a voter referendum, the State Lottery and Gaming Control Commission (SLGCC) to issue a sports gaming license to a video lottery operator or horse racing licensee. The holder of a sports gaming license may accept wagers on sporting events from an individual physically present at a video lottery facility or a thoroughbred or harness racetrack. A sporting event is a contest, game, or match between individuals or teams sponsored by a professional league or association or hosted by a college or university.

The bill takes effect July 1, 2017, with wagering on sporting events contingent on PASPA no longer prohibiting sports betting, after which it is contingent on passage of a referendum by voters in the next general election.

Fiscal Summary

State Effect: Authorizing sports gaming has no short-term fiscal impact because PASPA remains in effect, thereby prohibiting wagering on sporting events. However, if sports gaming was authorized in the State, special fund revenues increase. SLGCA can provide staff support to the task force with existing budgeted resources. Any expense reimbursements for members of the task force are presumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None. Authorizing sports gaming has no short-term fiscal impact because PASPA remains in effect. However, if sports gaming was authorized in the State, local revenues increase from local impact grants.

Small Business Effect: None.

Analysis

Bill Summary: The task force must monitor actions on specified federal laws relating to sports gaming in states, study the implementation of sports gaming in other states, and make recommendations on State laws to implement sports gaming. The bill specifies the membership of the task force and requires it to report findings and recommendations to the Governor and the General Assembly annually by December 1 of each year. A member of the task force may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget. The task force terminates on June 30, 2021.

If the contingencies of the bill are met, SLGCC must adopt regulations to implement sports gaming, and the regulations must specify the application form and fee, along with the term of the license. SLGCC must revoke a sports gaming license if the licensee does not hold a video lottery operation license or a horse racing license. A licensee may not accept a wager from an individual who is under the age of 21.

A sports gaming licensee retains 80% of the proceeds from sporting events, and the Comptroller must distribute the remaining 20% as follows:

- 5% to the Problem Gambling Fund;
- 5% to the Purse Dedication Account;
- 5% to the Transportation Trust Fund (TTF) to be used only for the State's share of the Washington Metropolitan Area Transit Authority;
- 20% to local impact grants; and
- 65% to the Education Trust Fund (ETF).

Current Law: Wagering on a contest, event, game, or match between individuals or teams sponsored by a professional league or association or hosted by a college or university is illegal in Maryland.

Chapter 346 of 2012 exempts a specified "fantasy competition" from prohibitions against betting, wagering, and gambling in State law. The law defines "fantasy competition" as any online fantasy or simulated game or contest such as fantasy sports in which

(1) participants own, manage, or coach imaginary teams; (2) all prizes and awards offered to winning participants are established and made known to participants in advance of the game or contest; and (3) the winning outcome of the game or contest reflects the relative skill of the participants and is determined by statistics generated by actual individuals.

In January 2016, the Office of the Attorney General issued a letter of advice on whether Chapter 346 had the effect of expanding commercial gaming in the State and, therefore, should have been subject to a voter referendum as required by Article XIX of the Maryland Constitution. The Attorney General's Office concluded that Chapter 346 clearly authorized traditional fantasy sports competitions that do not constitute commercial gaming and are, therefore, not subject to a voter referendum. However, to the extent that Chapter 346 authorized daily fantasy sports competitions, the Attorney General's Office concluded that the Act should have been referred to voter referendum. Due to the substantial uncertainty surrounding the issue, the Attorney General recommended that the General Assembly clarify whether daily fantasy sports are authorized in Maryland.

In the August 19, 2016 issue of the *Maryland Register*, the Comptroller published proposed fantasy sports regulations. The stated purpose of the regulations is to ensure that fantasy sports competitions are conducted on a fair and level playing field and to provide disclosure of information regarding players' tax obligations. The proposed regulations also contain many of the consumer protection provisions incorporated in legislation enacted in other states. The regulations took effect January 2, 2017.

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

The federal PASPA prohibits a government entity from sponsoring, operating, advertising, promoting, licensing, or authorizing a lottery, sweepstakes, or other betting, gambling, or wagering scheme based on one or more competitive games in which amateur or professional athletes participate. Likewise, a person may not sponsor, operate, advertise, or promote a lottery, sweepstakes, or other betting, gambling, or wagering scheme based on one or more competitive games in which amateur or professional athletes participate. States that had sports gambling before PASPA or authorized sports gambling within a year after PASPA became effective may continue to have sports gambling. Thus, Delaware, Montana, Nevada, and Oregon may offer gambling on sporting events, but only Delaware and Nevada currently authorize sports gambling.

Nevada generated \$219.2 million, or 1.95% of gaming revenues, from sports betting in 2016. Delaware generated \$37.9 million, or 6.3% of gaming revenues, from sports lotteries in fiscal 2015.

State Fiscal Effect: Authorizing sports gaming has no short-term fiscal impact because PASPA remains in effect. It is unknown when, if ever, PASPA will be repealed or amended in a manner that no longer prohibits the State from allowing wagering on sporting events, or if a federal court or the U.S. Department of Justice will determine that PASPA does not prohibit the State from allowing wagering on sporting events. If such events occurred, and the bill was approved by voter referendum in the following general election, then revenues to the Problem Gambling Fund, the Purse Dedication Account, TTF, and ETF increase. Based on sports gambling revenues in Nevada and Delaware, the Department of Legislative Services estimates that revenues attributable to a sports gaming license could increase by between 1.5% and 6.5% of total gaming revenues in the State.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Department of Labor, Licensing, and Regulation; Maryland State Lottery and Gaming Control Agency; Nevada Gaming Control Board; Delaware State Lottery; Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2017
mm/jrb

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Appendix – Maryland Gaming

The State of Maryland has authorized and awarded 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 video lottery terminals (VLTs) allotted in the State. The opening date and the number of VLTs and table games for each facility as of January 2017 are shown in **Exhibit 1**.

Exhibit 1 Number of VLTs and Table Games in Maryland

<u>Casino</u>	<u>County</u>	<u>Opening Date</u>	<u>VLTs</u>	<u>Table Games</u>
Hollywood Casino	Cecil	September 2010	850	20
Ocean Downs	Worcester	January 2011	800	-
Maryland Live!	Anne Arundel	June 2012	3,906	209
Rocky Gap Casino	Allegany	May 2013	662	17
Horseshoe Casino	Baltimore City	August 2014	2,202	179
MGM National Harbor	Prince George's	December 2016	3,237	165

VLT: video lottery terminal

Source: State Lottery and Gaming Control Agency; Department of Legislative Services

VLT and Table Game Revenues

The estimated revenues from VLTs and table games in fiscal 2018 through 2022 are shown in **Exhibit 2**. A total of \$1.79 billion in gross gaming revenues is projected in fiscal 2018, including \$546.7 million to be distributed to the Education Trust Fund.

Exhibit 2
Distribution of Estimated VLT and Table Game Revenues in Maryland
Current Law
(\$ in Millions)

	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
VLTs Distribution					
Education Trust Fund	\$447.9	\$454.1	\$460.9	\$467.8	\$474.8
Lottery Operations	11.8	11.9	12.1	12.3	12.5
Purse Dedication Account	66.4	67.3	68.3	69.3	70.3
Racetrack Renewal Account	10.9	11.0	11.2	11.3	11.5
Local Impact Grants	61.0	61.9	62.8	63.7	64.7
Business Investment	16.6	16.9	17.1	17.4	17.6
Licenses	517.8	524.8	532.6	540.6	548.7
Total VLTs	\$1,132.4	\$1,147.8	\$1,165.0	\$1,182.5	\$1,200.3
Table Games Distribution					
Education Trust Fund	\$98.8	\$100.0	\$101.5	\$103.0	\$104.6
Local Impact Grants	32.9	33.3	33.8	34.3	34.9
Licenses	526.8	533.4	541.4	549.5	557.7
Total Table Games	\$658.5	\$666.7	\$676.7	\$686.9	\$697.2
Total VLTs and Table Games	\$1,790.9	\$1,814.5	\$1,841.8	\$1,869.4	\$1,897.4
Total Education Trust Fund	\$546.7	\$554.1	\$562.4	\$570.9	\$579.4

VLT: video lottery terminal

Source: Board of Revenue Estimates; Department of Budget and Management; Department of Legislative Services
