

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 929

(Senator Guzzone)

Budget and Taxation

Ways and Means

Admissions and Amusement Tax - Sports Wagering - Prohibition

This bill prohibits the admissions and amusement tax from being imposed on any proceeds from sports wagering. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: None.

Local Effect: Potential decrease in local admissions and amusement tax revenues to the extent that the tax is imposed on sports wagering proceeds. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law:

Sports Wagering

Chapter 492 of 2020, a constitutional amendment approved by the voters at the November 2020 general election, authorized sports and event wagering, contingent upon implementation legislation being passed by the General Assembly. Chapter 356 of 2021 established the operational and regulatory framework for the State's sports wagering program.

Under Chapter 356, the State Lottery and Gaming Control Commission (SLGCC) is required to generally regulate sports wagering to the same extent that it regulates the operation of video lottery terminals and table games in the State. Sports wagering licenses are awarded by the Sports Wagering Application Review Commission (SWARC), the

members of which were appointed by the Governor, the President of the Senate, and the Speaker of the House.

On award of a license by SWARC, SLGCC must issue a license to an applicant that meets the requirements for licensure. There are 13 Class A and 7 Class B sports wagering facility licensees designated under the law, all of which are identified in **Exhibit 1** and can be seen in this [map](#). Class B-2 licenses are reserved for applicants with less than (1) 25 employees or (2) \$3 million in annual gross receipts. A sports wagering facility licensee may accept wagers made by an individual physically present on the licensee’s property, including wagers on a self-service kiosk, device, or machine on the property.

Exhibit 1
Designated Sports Wagering Facility Licensees

<u>License</u>	<u>Application Fee</u>	<u>Designated Licensees</u>
Class A-1	\$2,000,000	<ul style="list-style-type: none">• Three video lottery facilities – Live! in Anne Arundel County, Horseshoe in Baltimore City, and MGM National Harbor in Prince George’s County• Three professional sports stadiums/teams – M&T Bank Stadium, Oriole Park in Baltimore City, and FedEx Field in Prince George’s County• Owner of a professional hockey, basketball, or soccer franchise that leases a stadium in Maryland
Class A-2	\$1,000,000	<ul style="list-style-type: none">• Three video lottery facilities – Rocky Gap in Allegany County, Hollywood in Cecil County, and Ocean Downs in Worcester County• Maryland Jockey Club (operator of Laurel Park and Pimlico racecourses)
Class B	B-1: \$250,000 B-2: \$50,000	<ul style="list-style-type: none">• Maryland State Fairgrounds• Four off-track betting locations – Greenmount Station in Carroll County, Riverboat on the Potomac in Charles County, Long Shot’s in Frederick County, and Jockey Bar and Grille in Washington County• Two commercial bingo facilities with at least 200 machines – Bingo World in Anne Arundel County and Rod ‘N’ Reel in Calvert County

Source: Department of Legislative Services

Applicants may also compete for an additional 30 Class B-1 or B-2 facility licenses and 60 mobile sports wagering licenses. Mobile license applicants must pay a \$500,000 application fee.

Licensees retain 85% of sports wagering proceeds, with the remainder distributed to the Blueprint for Maryland's Future Fund (BMFF). Revenues accruing to BMFF are to be used to provide a world-class education for early childhood and K-12 students so that they are prepared for college and a career in the global economy. Certain other revenues are distributed to the Problem Gambling Fund and the Small, Minority-Owned, and Women-Owned Business Sports Wagering Assistance Fund, the purpose of which is to provide grants or loans to small, minority-owned, and women-owned businesses to facilitate participation in the sports wagering industry.

Admissions and Amusement Tax

Counties and municipalities are authorized to tax the gross receipts derived from (1) the charge for admission to any place furnishing a performance such as a movie theater or sports stadium; (2) the use or rental of sporting or recreational facilities; (3) the merchandise, refreshments, or services sold or served in connection with entertainment at a nightclub or a room in a hotel, restaurant, hall, or other place where dancing privileges, music, or other entertainment is provided; (4) use of a game of entertainment; and (5) use or rental of recreational or sports equipment.

Counties and municipalities may also impose a tax on admission for a reduced charge or at no charge to a place that otherwise charges admission. An admissions and amusement tax may not be imposed in a municipality by a county if the municipality already imposes a similar tax or specifically exempts any gross receipts from the admissions and amusement tax.

The Maryland Stadium Authority (MSA) is authorized to impose a tax on the gross receipts derived from any admissions and amusement charge for a facility owned or leased by the stadium authority. The stadium authority also may impose an additional tax for each person provided with a free admission or an admission at a reduced charge to a stadium authority facility. Currently, these taxes are imposed at both stadiums at Camden Yards.

Maximum Authorized Tax Rates

Each unit of local government sets its own single tax rate or range of rates. This rate is expressed as a percentage of gross receipts, up to a maximum rate of 10%. MSA may impose an admissions and amusement tax at its facilities of up to 8%. In those instances where gross receipts are subject to both a local and a stadium authority admissions and amusement tax, the stadium authority tax takes precedence. The stadium authority imposes

the maximum 8% rate at both stadiums at Camden Yards. Therefore, Baltimore City may only impose a maximum 2% admissions and amusement tax on those receipts.

The local admissions and amusement tax is further limited by the State sales and use tax. The maximum tax rate on the gross receipts subject to both the State sales and use tax and the local admissions and amusement tax may not exceed 11%. Therefore, if the 6% State sales and use tax applies to these receipts, the local admissions and amusement tax may not exceed 5%. This limitation on the local tax arises primarily on performances accompanied by some type of food service (*e.g.*, dinner theaters).

Counties, municipalities, and the stadium authority are authorized to classify different types of activities, and the rate of tax need not be the same for each type. If a municipal government does not levy a tax, the county tax, if any, applies within the municipality.

Local Tax Rates and Revenue Amounts

Information on local admissions and amusement tax rates and revenues is provided in the [County Revenue Outlook](#) report. A copy of the report is available on the Department of Legislative Services [website](#).

Video Lottery Terminals and Table Games

State law prohibits admissions and amusement taxes from being imposed on any proceeds from the operation of video lottery terminals and table games.

Local Fiscal Effect: The bill prohibits local governments from imposing the admissions and amusement tax on proceeds from sports wagering. This is the same as the prohibition on imposing the admissions and amusement tax on the proceeds derived from video lottery terminals and table games. As a result, local admissions and amusement tax revenues may decrease beginning in fiscal 2023 to the extent admissions and amusement taxes are imposed on sports wagering proceeds.

Both the Comptroller's Office and the State Lottery and Gaming Control Agency (SLGCA) advise that a local government must enact a local law to impose the admissions and amusement tax on sports wagering proceeds. To date, only one local government has done so. On January 20, 2022, the Town of Chesapeake Beach in Calvert County passed a local ordinance - Ordinance O-21-7 - which authorizes the town to expand its admissions and amusement tax to include proceeds derived from sports wagering from a Class A1, Class A2, Class B1, and Class B2 sports wagering licensee located within the town limits. SLGCA reports that there is only one entity located in Chesapeake Beach (Rod 'N' Reel) that may be subject to the town's admissions and amusement tax for sports wagering.

SLGCA advises the entity has initiated the application process, but no license has been awarded at this time.

Sports wagering proceeds are estimated to total \$110.7 million in fiscal 2023, but the amount of proceeds generated by each licensed facility is unknown. For *illustrative purposes only*, total local admissions and amusement taxes could total \$8.7 million in fiscal 2023, to the extent that all sports wagering proceeds are subject to local admissions and amusement taxes. This estimate assumes a weighted average admissions and amusement tax rate of 7.8%.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

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