

To: House Ways and Means Committee

Date: February 4, 2025

Re: Testimony Favorable with Amendment re: House Bill 633 (Gaming – Slot Machines – Skills-Based Amusement Devices)

PPE Casino Resorts Maryland, LLC dba Live! Casino & Hotel Maryland has concerns with HB 633 as currently drafted and requests consideration of an amendment to ensure that the bill does not inadvertently authorize untaxed and unregulated slot-machine like “skill games” throughout the state.

Casino gaming and the substantial tax revenue it generates is under threat around the country from the emergence of unlicensed and unregulated “skill” games who pay no taxes.

These games are in every respect identical to the slot machines that appear in licensed casinos. Just like a slot machine, a skill game player (i) makes a wager, (ii) presses a button to spin electronic reels, and then (iii) wins or loses based on random chance. However, the operators of these so called “skill games” claim that the devices are not slot machines because players have available to them after a losing spin the opportunity to revert to a little-known, little-used, and tedious to play memory game that could potentially allow the players to recoup some or all of their gambling losses.

The implications of this claimed loophole are worrying. If the machines are not slot machines and wagering on them is not gambling, then the machines could be placed anywhere— near schools, parks, and daycare centers, and in gas stations, convenience stores, grocery stores, restaurants, bars, and liquor stores—and they could be played by anyone, including children and individuals with gambling problems who have otherwise excluded themselves from gambling by enrolling in the Maryland Lottery and Gaming Control Agency’s voluntary exclusion program, that only apply to license casinos.

This is not a hypothetical threat. In Pennsylvania, uncertainty about the games’ legal status and conflicting court rulings have allowed the games to become a ubiquitous presence in Pennsylvania bars, restaurants, and convenience stores. They pay zero taxes to the State of Pennsylvania. Dedicated and unlicensed skill games casinos have begun to emerge, such as the “Keystone Klub Gaming Parlor” in Harrisburg and “24/7 Skills” in Erie, both of which are within short drives of licensed casinos with whom they are competing. Incredibly, there are now even mobile, pop-up skill game parlors that can operate anywhere in Pennsylvania at any time. One was at last year’s Wyoming County Fair, surrounded by activities for children and their families. This has led to “an increase in crime related to the proliferation of the machines” and “a strain on law enforcement in many communities,” according to the Pennsylvania District Attorneys Association.¹

To date, Maryland has avoided the scourge of slot-like skill games thanks to strong statutory language that has long criminalized the operation of unlicensed slot machines and other

¹ <https://www.pdaa.org/wp-content/uploads/2024/02/Letter-to-Gov.-Shapiro-Final-Signed.pdf>

gaming devices,² and broad interpretations of these provisions from our State’s courts. For example, in *Brown v. State*, 210 Md. 301 (1956), the Court of Appeals found pinball machines to be illegal gambling devices when played for cash prizes, despite the obvious skill required of players. As the Court explained, “[c]onstruing the statutes liberally, we see no reason to confine the application of the statute to those devices that depend upon chance, as distinguished from skill. In its broader aspects, playing any game for money is gaming.”³

And while the statutory definition of “slot machine” has an exclusion for skills-based amusement devices, it is limited to those devices that “award[] prizes of minimal value approved by the State Lottery and Gaming Control Commission through regulation.”⁴ The MLGCC has done so by indicating that skill-based amusement devices are lawful only where, among other things, the prize is not cash, is not readily convertible to cash, and has a wholesale value of no more than \$30.⁵

The existing law and regulations carefully balance the needs of traditional arcades that offer small, non-cash prizes for games like skeeball, arcade basketball, and claw machines with the state’s clear desire to prohibit thinly veiled slot machines that would cannibalize revenue from the state’s six casinos. HB 633, as drafted, threatens to upset that balance.

By allowing credits earned on skills-based amusement devices to be accumulated and redeemed for prizes of unlimited value, HB 633 could open the door to gambling on slot-like skill games throughout the state. But an amendment to HB 633 could ensure that the bill is not misapplied so as to open the door to slot-like skill games, while still allowing accumulated arcade game tickets to be redeemed for larger prizes.

Therefore, we respectfully ask that HB 633 be amended to:

- (i) codify in statute the current regulatory limit of a per play noncash prize value of \$30;
- (ii) further clarify that the prizes cannot be converted to cash; and
- (iii) ensure that the aggregate cost of playing the skills-based amusement devices will always exceed the aggregate cost of the prizes.

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² See Md. Code, Crim. Law § 12-101 *et seq.*

³ *Brown v. State*, 210 Md. 301, 307 (1956).

⁴ Md. Code, Crim. Law § 12-301(3)(vii).

⁵ See COMAR 36.08.04.01(A)(2); <https://www.mdgaming.com/ancillary-responsibilities/skills-based-amusement-devices/>.

Amendment to HB 633:

On page 2, lines 19-25, read (*italics/underline* = new language):

(vii) is a skills-based amusement device that awards *noncash* prizes *of* [of],
MERCHANDISE, TICKETS, TOKENS, OR OTHER OBJECTS THAT:

1. **PER PLAY, DO NOT EXCEED** *a value of the lesser of \$30 and a*
minimal value approved by the State Lottery and Gaming Control Commission through
regulation;

2. *Cannot be converted into money;* [or] **AND**

3. **MAY BE ACCUMULATED AND EXCHANGED FOR NONCASH
MERCHANDISE OR PRIZES OF VALUE** *in excess of \$30* **THAT IS SIMILAR TO THE
CUMULATED VALUE OF THE OBJECTS EXCHANGED** *so long as such skills-based
amusement device is configured such that the aggregate cost to play the device will always
exceed the aggregate value of the merchandise, tickets, tokens, or other objects awarded by the
device;* **OR**