

**Maryland General Assembly**  
**Department of Legislative Services**

**Emergency/Proposed Regulations**  
**Maryland State Lottery and Gaming Control Agency**  
(DLS Control No. 23-261)

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## **Overview and Legal and Fiscal Impact**

These regulations make multiple alterations to provisions governing the regulation of video lottery facilities, video lottery operator licensees, sports wagering facilities, sports wagering facility licensees, voluntary exclusion programs, and electronic bingo manufacturers and implement recently enacted legislation.

The regulations present no legal issues of concern.

There is no material fiscal impact on State or local agencies.

## **Regulations of COMAR Affected**

### **Maryland State Lottery and Gaming Control Agency:**

Gaming Provisions: General: COMAR 36.03.01.02

Investigation and Licensing: COMAR 36.03.02.06., .12, .13, and .17

Video Lottery Operation License: COMAR 36.03.03.01, .05, .06, .07, and .10

Collection of Taxes, Fees, and Penalties: COMAR 36.03.08.02 and .04

Video Lottery Facility Minimum Internal Control Standards:

COMAR 36.03.10.16, .20, and .21

Facility Standards: COMAR 36.03.11.05

Video Lottery Terminals: Video Lottery Technical Standards: COMAR 36.04.01.11

Instant Bingo Machines in Anne Arundel and Calvert Counties:

Application and Licensing: COMAR 36.07.02.12

Sports Wagering Provisions: General: COMAR 36.10.01.02

Qualification Requirements: COMAR 36.10.03.02

Specific Requirements for Sports Wagering Facility Licensees:

COMAR 36.10.04.02, .04, and .06

Specific Requirements for Mobile Sports Wagering Licenses: COMAR 36.10.05.02

Specific Requirements for Other Licenses Required for Sports Wagering:

COMAR 36.10.06.02, .03, and .09

Enforcement of Voluntary Exclusion Program: COMAR 36.10.10.03

Sports Wagering Licensee Minimum Internal Control Standards: COMAR 36.10.13.41

Sports Wagering Licensee Facility Standards: COMAR 36.10.15.03 and .04

Sports Wagering Application Review Commission:

All Applicants and Awardees: COMAR 36.11.02.20

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## **Legal Analysis**

### **Background**

Chapter 638 of 2023 requires the State Lottery and Gaming Control Commission (SLGCC) to license independent evaluators to evaluate and rate sports wagering content provided by sports wagering experts, sports wagering influencers, and content partners. A sports wagering licensee or operator that advertises in the State may contract with a licensed independent evaluator. Chapter 638 also authorizes the SLGCC and the Sports Wagering Application Review Commission (SWARC) to consider a request, received in writing on or before December 31, 2023, to amend a Class B-2 sports wagering facility license application for the purpose of altering the facility's proposed location if the applicant was awarded a sports wagering facility license on or before February 15, 2023.

Chapter 663 of 2023 exempts an applicant for a video lottery employee license from disqualification related to crimes involving moral turpitude if the applicant's conviction, active parole, or probation within the prior seven years or current prosecution for a crime involving moral turpitude involves a nonviolent misdemeanor offense, other than a crime involving gambling, for which the applicant participated in and completed a problem-solving court program.

Chapters 700 and 701 of 2023, in relevant part, prohibit an institution of higher education from entering into a contract with a regulated gaming entity or its agent, if, under the terms of the contract, the institution of higher education receives a commission, a bonus, or any other incentive payment based on the success of securing student participation in sports wagering or online sports wagering.

Chapter 736 of 2023 extends the renewal term of a video lottery operation license from 10 to 15 years. A video lottery operation licensee must pay, for each five-year period of its initial renewal term, a fee equal to 0.75% of the average annual proceeds from the operation of video lottery terminals (VLTs) and table games at its video lottery facility for the preceding three-year period, to be paid in equal annual installments and credited to the Education Trust Fund. The Act also distributes 20% of the fees collected back to the licensee for marketing, advertising, and promotions that exclusively target out-of-state audiences.

### **Summary of Regulations**

The regulations make multiple alterations to provisions governing the regulation of video lottery facilities, video lottery operator licensees, sports wagering facilities, sports wagering facility licensees, voluntary exclusion programs, and electronic bingo manufacturers. Of note, the regulations:

- define the terms “beneficial owner”, “contractor – Tier 1” or “Tier 1 contractor”, “contractor – Tier 2” or “Tier 2 contractor”, “manufacturer”, “manufacturer – Tier 1” or “Tier 1 manufacturer”, and “manufacturer – Tier 2” or “Tier 2 manufacturer” and amend the term “principal employee” for purposes of regulations governing video lottery terminal facilities;

- specify that the SLGCC must recognize a qualification determination of a principal entity that is found qualified for a period of five years and provide that the entity is not required to submit a new disclosure form if identified in a subsequent license application within that period of time;
- amend regulations governing the licensing of video lottery employees to (1) permit gaming employees to be employed by a sports wagering licensee without submitting a separate license application; (2) authorize the relinquishment of a license and request for reinstatement; and (3) in accordance with Chapter 663 of 2023, provide that certain applicants who have committed a nonviolent misdemeanor offense are not mandatorily disqualified under certain circumstances;
- authorize agency staff to issue gaming manufacturer licenses and clarify certain regulations governing gaming manufacturer and contractor licensing fees;
- clarify video lottery terminal facility vendor and sports wagering vendor registration requirements;
- amend provisions governing video lottery facility operation licenses to conform to Chapter 736 of 2023 with respect to the renewal of a video lottery facility operation license;
- require video lottery facility operators and sports wagering licensees to conspicuously display the gambling assistance message and, in the case of sports wagering licensees, prohibit advertisements from containing language that suggests an outcome is guaranteed or without risk;
- specify that annual Problem Gambling Funds assessments imposed on VLTs are based on the number of VLTs authorized on the video lottery facility's license and that assessments imposed on table games are based on the highest number of table games in operation at the facility during that year;
- (1) reduce audit frequency of video lottery facility operators for non-gaming activities; (2) increase, from \$30,000 to \$50,000, the aggregate amount that a facility operator may accept from a player by check; (3) authorize a facility operator to accept as payment amounts not exceeding \$250,000 in the aggregate if paid by check as payout in connection with gaming activity by a facility operator or an affiliate of a facility operator that holds a valid gaming license in another jurisdiction; (4) authorize a facility operator to accept an ACH transfer from a player to take part in gaming or pay an outstanding debt; and (5) require a facility operator to provide a player with a record of spending levels if the player has registered online with the facility operator for the establishment of an account and logs into the player's account at a self-service kiosk or on the facility operator's player rewards website;
- Authorize agency staff, rather than the SLGCC, to approve changes to a casino's gaming floor plan within authorized VLT and table game counts;

- authorize a video lottery facility operator to make available or play a VLT with an average payout percentage that exceeds 95 percent without the written approval of the SLGCC if SLGCC has previously approved the paytables;
- authorize a video lottery facility operator to (1) operate fewer VLTs than the maximum number authorized on the facility's license; (2) reduce, subject to agency staff approval, the number of authorized VLTs on the facility's license on a temporary or long-term basis; and (3) subject to the SLGCC approval, operate VLTs in excess of the maximum number authorized on the facility's license and obtain an amended license certificate reflecting the increase;
- clarify the role of agency staff in the regulation of electronic bingo machine manufacturers;
- define the terms “independent evaluator”, “sports wagering content”, “sports wagering content partner” or “content partner”, and “sports wagering influencer” or “sports wagering expert” and amend the definitions of “beneficial owner”, “sports wagering contactor” or “contractor”, “sports wagering contractor Tier 1” or “Tier 1 contractor”, and “sports wagering operation” or “sports wagering operations” for purposes of regulations governing sports wagering;
- clarify bond requirements that apply to sports wagering applicants and licensees and online sports wagering operator, sports wagering facility operator, sports wagering contractor, and sports wagering employee licensees;
- specify the manner by which a Class B-2 sports wagering facility license awardee may submit to the SLGCC and SWARC, in accordance with Chapter 638 of 2023, a request to amend its application to alter the proposed location of the sports wagering facility;
- provide for the regulation of independent evaluators and those evaluators' employees in accordance with Chapter 638;
- (1) reduce audit frequency of sports wagering licensees for non-gaming activities; (2) authorize a Class B-2 sports wagering facility licensee to perform cash drop box collection with two, rather than three, employees; (3) clarify reserve requirements and player account protections; (4) clarify consumer protection requirements for sports wagering promotions; (5) prohibit, in conformity with Chapters 700 and 701, a regulated gaming entity from entering into a contract with an institution of higher education that contains certain terms; and (6) require mobile sports wagering licensees and online sports wagering operator licensees to submit written notice to the SLGCC of any contract it has, or plans to enter into, with a public institution of higher education;
- clarify surety bond requirements for sports wagering licensees; and
- authorize agency staff to approve sports wagering facility design standards and facility plans.

## **Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The State Lottery and Gaming Control Agency cites §§ 11-101, 11-524, and 11-815 through 11-832 of the Business Regulation Article; §§ 12-301.1 and 12-308 of the Criminal Law Article; §§ 10-101 and 26-801 of the Education Article; § 10-113.1 of the Family Law Article; § 9-110 and Subtitle 1A and 1E of the State Government Article; Chapter 603, § 6 of 2012; Chapter 10, § 23 of 2018; and Chapter 638 of 2023 as statutory authority for the regulations.

Section 12-301.1 of the Criminal Law Article requires the SLGCC to certify and regulate the operation, ownership, and manufacture of an electronic gaming device.

In relevant part, § 26-801 of the Education Article, as enacted by Chapters 700 and 701 of 2023, prohibit an institution of higher education from entering into a contract with a regulated gaming entity or its agent under certain circumstances.

Section 9-110 of the State Government Article broadly authorizes the Director of the agency to adopt regulations with the approval of the commission. Section 9-1A-02 requires the SLGCC to regulate the operation of VLTs and table games. Section 9-1A-04 requires the SLGCC to adopt specified regulations necessary to regulate VLT operations. Section 9-1A-24 requires, in relevant part, the SLGCC to adopt standards for the exclusion or ejection of individuals from a video lottery facility and measures that are intended to reduce or mitigate the effects of problem gambling. Section 9-1E-03, in relevant part, provides that specified provisions of Title 9, Subtitle 1A of the State Government Article apply to the authority, duties, and responsibilities of the SLGCC under the sports wagering subtitle. Section 9-1E-04 provides that the SLGCC must regulate sports wagering to the same extent that it regulates the operation of VLTs and table games in the State and requires SLGCC to adopt specified regulations, including regulations that concern the license application process, obtaining personal and background information on an applicant or licensee, the method of collection of fees, taxes, and penalties, and rules that govern the conduct of sports wagering.

Section 6 of Chapter 603 of 2012 authorizes the commission to adopt regulations to regulate the repair and replacement of electronic bingo machines and requires the commission to adopt regulations that include provisions providing for the legal operation of amusement games licensed by Baltimore City and Baltimore County.

As discussed above, Chapter 638 of 2023 requires the SLGCC to license independent evaluators and authorizes SLGCC and SWARC to consider a request to amend a Class B-2 sports wagering facility license application under certain circumstances.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

## **Emergency Status**

The agency requests emergency status beginning November 15, 2023, and expiring May 13, 2024. This emergency period is within the normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. The agency indicates the emergency status is necessary as the amended regulations reflect changes in statutory law that must be codified in regulation and incorporate provisions that better define and refine the requirements for gaming and sports wagering operations as well as industry recommendations to better conform to the agency's oversight responsibility for expanded gambling. It should be noted that the requested date for commencement of emergency status is earlier than permissible under the Administrative Procedure Act; the date of commencement will coincide with the date of approval by the committee of the request for emergency status.

## **Technical Corrections and Special Notes**

Staff for the Department of Legislative Services advised the agency of several typographical errors and erroneous cross-references contained in the regulations.

## **Fiscal Analysis**

There is no material fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The agency advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs that there is no material impact as most of the fiscal impact of the regulations have already been assumed in fiscal and policy notes. The fiscal and policy note for Senate Bill 621 of 2023 (enacted as Chapter 638 of 2023) stated that the agency's administrative costs may increase beginning in fiscal 2024 in order to license independent evaluators of sports wagering content.

The fiscal and policy note for Senate Bill 537 of 2023 (enacted as Chapter 736 of 2023) accounted for extending the renewal term of a video lottery operation license from 10 to 15 years and requiring a video lottery operation licensee to pay, for each five-year period of its initial renewal term, a fee equal to 0.75% of the average annual proceeds from the operation of VLTs and table games at its video lottery facility for the preceding three-year period, to be paid in equal annual installments and credited to the Education Trust Fund. The fiscal and policy note for Senate Bill 537 assumed Education Trust Fund revenues increase by \$225,300 in fiscal 2026 when the first video lottery operation license renewal occurs. Once all video lottery operation licensees have renewed their licenses and are subject to annual renewal fees, Education Trust Fund revenues increase by approximately \$2.7 million annually beginning in fiscal 2032. Special fund expenditures increase by \$1.3 million in fiscal 2027 and by \$2.6 million in fiscal 2032. General fund expenditures decrease by amounts equivalent to special fund expenditure increases.

Increasing the personal check cashing limit from \$30,000 to \$50,000, accepting ACH transfers, and authorizing a facility operator to accept a higher aggregate dollar value of check(s) from a player from checks that are payouts for gaming activity from a casino licensed in Maryland or an out-of-state affiliate of a Maryland casino may encourage additional casino gambling activity, but are not expected to materially increase gaming revenues.

The regulations authorize a video lottery facility operator to, subject to SLGCC approval, operate VLTs in excess of the maximum number authorized on the facility's license and obtain an amended license certificate reflecting the increase. Thus, to the extent a facility operator increases the number of authorized VLTs on its license, fees for each additional VLT on the license increase Education Trust Fund revenues by \$6,000 and Problem Gambling Fund revenues by \$425, and gaming revenues may also increase. However, the agency anticipates only minimal increases in VLTs with no material revenue effect.

The regulations alter vendor registration requirements and eliminate the vendor certification process. Thus, vendor registration revenues decrease by \$100 for each vendor that provides nongaming goods or services of between \$20,000 and \$50,000 to a video operation or sports wagering applicant or licensee as a result of the regulations raising the exemption threshold of goods or services for vendors from \$20,000 to \$50,000. Once every five years, revenues decrease by an additional \$100 from exempt vendors not renewing their registration. As of November 14, 2023, there are 509 registered vendors with reported goods or services of between \$20,000 and \$50,000. Assuming 20% of registered vendors renew their licenses each year, license revenues decrease by approximately \$10,000 annually.

Additionally, eliminating the vendor certification process reduces vendor license fees by \$900 for each vendor that no longer must pay a certification fee of \$1,000 but must instead pay a registration fee of \$100. Once every five years, revenues decrease by an additional \$400 from vendors that were once certified paying a \$100 registration renewal fee instead of a \$500 certification renewal fee. Based on recent new and renewal vendor certification applications, the Department of Legislative Services estimates license fee revenues decrease by approximately \$55,000 annually from eliminating the vendor certification process. However, streamlining the vendor registration process creates operational efficiencies for the agency.

## **Impact on Budget**

There is no impact on the State operating or capital budget.

## **Agency Estimate of Projected Small Business Impact**

The agency advises that the regulations have a meaningful economic impact on small businesses in the State. The Department of Legislative Services concurs. The regulations reduce the vendor filing fee from \$1,000 to \$100 and reduce the renewal fee from \$500 to \$100 for specified gaming vendors. Thus, small businesses that provide nongaming goods or services of \$300,000 or more to a single gaming applicant or licensee or \$600,000 or more to multiple gaming applicants or licensees benefit from reduced vendor application and renewal fees. Additionally, the regulations exempt vendors with goods or services of between \$20,000 and \$50,000 from the

\$100 vendor registration and renewal process fees. Thus, small businesses that provide nongaming goods or services of between \$20,000 and \$50,000 to a video operation or sports wagering applicant or licensee also benefit.

## **Contact Information**

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