

SENATE BILL 959

C7

EMERGENCY BILL

8lr3180

By: **Senators Middleton, Miller, Astle, Conway, Currie, DeGrange, Exum, Forehand, Frosh, Garagiola, Haines, Harrington, Kasemeyer, Kelley, King, Kramer, Lenett, Madaleno, McFadden, Munson, Muse, Peters, Pinsky, Pugh, Raskin, Robey, Rosapepe, and Stoltzfus**

Introduced and read first time: February 27, 2008

Rules suspended

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Statewide Phase-Out of Electronic Gaming Devices**

3 FOR the purpose of prohibiting, on or after a certain date, the purchase, lease, sale,
4 transfer, replacement, licensure, or operation of an electronic gaming device in
5 the State; providing certain exceptions to the prohibition; defining a certain
6 term; providing certain penalties; altering certain definitions; making this Act
7 an emergency measure; and generally relating to electronic gaming devices.

8 BY repealing and reenacting, without amendments,

9 Article – Criminal Law

10 Section 12–101(a), 12–102, 12–104, 12–111, 12–302, and 13–203

11 Annotated Code of Maryland

12 (2002 Volume and 2007 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Criminal Law

15 Section 12–101(d), 12–301, 12–304(c), and 13–101

16 Annotated Code of Maryland

17 (2002 Volume and 2007 Supplement)

18 BY adding to

19 Article – Criminal Law

20 Section 12–108.1

21 Annotated Code of Maryland

22 (2002 Volume and 2007 Supplement)

23 Preamble

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, Although 37 states have authorized the use of slot machines,
2 Maryland, with the narrow exception of qualified nonprofit organizations in eight
3 Eastern Shore counties, has long prohibited a person from locating, possessing,
4 keeping, or operating a slot machine; and

5 WHEREAS, Despite a clear prohibition in State law as to the use of slot
6 machines and similar gaming devices, the use, possession, and operation of electronic
7 gaming devices and machines has expanded throughout the State on a massive scale
8 under the pretext of bingo, tip jars, and other gaming activities without any State
9 authorization, oversight, or regulation; and

10 WHEREAS, In many instances these electronic gaming devices are so similar in
11 appearance and operation to slot machines that the contention that they are not slot
12 machines is absurd and has caused confusion among the members of the public as well
13 as law enforcement officers who are charged with upholding the State laws prohibiting
14 the unauthorized operation of slot machines; and

15 WHEREAS, When the State legislature granted persons the opportunity to
16 conduct bingo, instant bingo, or other forms of gambling, the legislature did not
17 contemplate or intend that the games would be played on technologically advanced
18 electronic gaming devices similar in appearance and player operation to slot machines;
19 and

20 WHEREAS, The General Assembly passed a proposed Constitutional
21 Amendment in November 2007 that will be decided by the voters of this State at
22 referendum in November 2008 which would authorize an electronic video lottery
23 terminal program strictly limited to five locations in the State with a limited number
24 of machines and a significant majority of the funding allocated to benefit K-12 and
25 higher education in the State; and

26 WHEREAS, Neither the General Assembly nor the voters have approved
27 measures to authorize expanded electronic gaming in the State; and

28 WHEREAS, Electronic gaming devices have been inappropriately authorized by
29 local governments at a potentially unlimited number of locations and are being
30 operated in this State with no central State oversight or regulation of the revenues
31 and their distribution resulting in tremendous private gain to private operators under
32 the guise of commercial and charitable activity to the detriment of the State; and

33 WHEREAS, The State Lottery is estimated to yield over \$500,000,000 for the
34 general support of State government in fiscal year 2009, and a proliferation of
35 electronic gaming devices without any authorization by the General Assembly will
36 reduce State revenues at a time of great fiscal strain on the State budget; and

37 WHEREAS, Revenues collected from the State Lottery are essential to the State
38 budget and for maintaining critical government services, including funding provided to
39 local governments for K-12 education, teachers' retirement, libraries, aging public

1 school renovation, community colleges, local police aid, and local health departments,
2 and to preserving full funding of local highway user revenues, and Program Open
3 Space funds; and

4 WHEREAS, Without central regulation and oversight by the State, the massive,
5 unregulated, and unauthorized expansion of electronic gaming on an ad hoc basis at
6 the local level creates the opportunity for inappropriate private gain, criminal activity,
7 and other behavior that is harmful to the public interest and is contrary to the best
8 interests of all of the citizens of the State; now, therefore,

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
10 MARYLAND, That the Laws of Maryland read as follows:

11 **Article – Criminal Law**

12 12–101.

13 (a) In this subtitle the following words have the meanings indicated.

14 (d) (1) “Gaming device” means:

15 (i) a gaming table, except a billiard table, at which a game of
16 chance is played for money or any other thing or consideration of value; or

17 (ii) a game or device at which money or any other thing or
18 consideration of value is bet, wagered, or gambled.

19 (2) “Gaming device” includes a paddle wheel, wheel of fortune, chance
20 book, and bingo.

21 **(3) “GAMING DEVICE” INCLUDES AN ELECTRONIC GAMING**
22 **DEVICE UNDER § 12–108.1 OF THIS SUBTITLE.**

23 12–102.

24 (a) A person may not:

25 (1) bet, wager, or gamble;

26 (2) make or sell a book or pool on the result of a race, contest, or
27 contingency;

28 (3) establish, keep, rent, use, or occupy, or knowingly allow to be
29 established, kept, rented, used, or occupied, all or a part of a building, vessel, or place,
30 on land or water, within the State, for the purpose of:

31 (i) betting, wagering, or gambling; or

1 (ii) making, selling, or buying books or pools on the result of a
2 race, contest, or contingency; or

3 (4) receive, become the depository of, record, register, or forward, or
4 propose, agree, or pretend to forward, money or any other thing or consideration of
5 value, to be bet, wagered, or gambled on the result of a race, contest, or contingency.

6 (b) A person who violates this section is guilty of a misdemeanor and on
7 conviction is subject to imprisonment for not less than 6 months and not exceeding 1
8 year or a fine of not less than \$200 and not exceeding \$1,000 or both.

9 (c) (1) The provisions of this subsection apply only in Baltimore City.

10 (2) A person who violates this section may be charged by a citation.

11 (3) A citation for a violation of this section may be issued to a person
12 by a police officer authorized to make arrests in Baltimore City if there is probable
13 cause to believe that the person is committing or has committed a violation of this
14 section.

15 (4) A citation issued under this subsection shall contain:

16 (i) the name and address of the person charged;

17 (ii) the statute allegedly violated;

18 (iii) the location, date, and time that the violation occurred;

19 (iv) the fine or term of imprisonment that may be imposed;

20 (v) a notice stating that prepayment of a fine is not allowed;

21 (vi) a notice that the court shall promptly send the person
22 charged a summons to appear for trial; and

23 (vii) the signature of the police officer issuing the citation.

24 (5) (i) The police officer who issued the citation shall forward to the
25 appropriate court a copy of the citation.

26 (ii) The court shall promptly schedule the case for trial and
27 summon the defendant to appear.

28 (iii) Willful failure of the defendant to respond to the summons is
29 contempt of court.

1 (a) A person may not:

2 (1) keep a gaming device, or all or a part of a building, vessel, or place,
3 on land or water within the State for the purpose of gambling;

4 (2) own, rent, or occupy all or a part of a building, vessel, or place and
5 knowingly allow a gaming device to be kept in the building, vessel, or place;

6 (3) lease or rent all or a part of a building, vessel, or place to be used
7 for the purpose of gambling;

8 (4) deal at a gaming device or in a building, vessel, or place for
9 gambling;

10 (5) manage a gaming device or a building, vessel, or place for
11 gambling; or

12 (6) have an interest in a gaming device or the profits of a gaming
13 device.

14 (b) A person who violates this section is guilty of a misdemeanor and on
15 conviction is subject to imprisonment for not less than 6 months and not exceeding 1
16 year or a fine not exceeding \$500 or both.

17 **12-108.1.**

18 (A) (1) IN THIS SECTION, "ELECTRONIC GAMING DEVICE" MEANS AN
19 ELECTRONIC SLOT MACHINE, VIDEO POKER MACHINE, ELECTRONIC BINGO
20 MACHINE, ELECTRONIC PULL TAB MACHINE, OR SIMILAR ELECTRONIC MACHINE
21 THAT:

22 (I) ON INSERTION OF A COIN, TOKEN, OR SIMILAR OBJECT
23 OR ON PAYMENT OF ANY CONSIDERATION, IS AVAILABLE TO BE PLAYED; AND

24 (II) BY THE SKILL OF THE PLAYER, THE APPLICATION OF
25 THE ELEMENT OF CHANCE, OR BY ANY OTHER METHOD, MAY DELIVER OR
26 ENTITLE THE PLAYER TO RECEIVE CASH, PREMIUMS, MERCHANDISE, TOKENS,
27 PAPER RECEIPTS REDEEMABLE FOR CASH, OR ANYTHING ELSE OF VALUE.

28 (2) "ELECTRONIC GAMING DEVICE" INCLUDES AN ELECTRONIC
29 MACHINE THAT:

30 (I) DISPENSES TICKETS VERIFYING THE NUMBER OF
31 POINTS OR CREDITS THAT THE PLAYER HAS ACCUMULATED WHILE PLAYING
32 AND THAT MAY BE REDEEMED FOR CASH OR MERCHANDISE; AND

1 **(II) IS EQUIPPED WITH A KNOCK-OFF SWITCH OR SIMILAR**
2 **DEVICE THAT RELEASES FREE GAMES OR CREDITS ACCUMULATED TOWARD THE**
3 **AWARD OF CASH OR MERCHANDISE AND RESETS THE POINT OR CREDIT TOTAL**
4 **TO ZERO.**

5 **(3) IF LEGISLATION IS ENACTED AUTHORIZING COMMERCIAL**
6 **VIDEO LOTTERY GAMING IN THE STATE, "ELECTRONIC GAMING DEVICE" DOES**
7 **NOT INCLUDE A VIDEO LOTTERY TERMINAL AS DEFINED IN § 9-1A-01 OF THE**
8 **STATE GOVERNMENT ARTICLE.**

9 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
10 **SUBSECTION, A PERSON MAY NOT PURCHASE, LEASE, SELL, TRANSFER,**
11 **REPLACE, LICENSE, OR OPERATE AN ELECTRONIC GAMING DEVICE IN THE**
12 **STATE.**

13 **(2) IF A PERSON HAS CONTINUOUSLY OPERATED AN ELECTRONIC**
14 **GAMING DEVICE AS AN OWNER, LESSOR, LESSEE, LICENSOR, LICENSEE, OR IN**
15 **ANY OTHER CAPACITY BEGINNING:**

16 **(I) BEFORE JULY 1, 1998, THE PERSON MAY CONTINUE TO**
17 **OPERATE AN ELECTRONIC GAMING DEVICE THROUGH THE END OF JUNE 30,**
18 **2009;**

19 **(II) ON OR AFTER JULY 1, 1998, BUT BEFORE JULY 1, 2003,**
20 **THE PERSON MAY CONTINUE TO OPERATE AN ELECTRONIC GAMING DEVICE**
21 **THROUGH THE END OF DECEMBER 31, 2008; AND**

22 **(III) ON OR AFTER JULY 1, 2003, BUT BEFORE MARCH 1,**
23 **2008, THE PERSON MAY CONTINUE TO OPERATE AN ELECTRONIC GAMING**
24 **DEVICE THROUGH THE END OF JUNE 30, 2008.**

25 **(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
26 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:**

27 **(1) IF THE PERSON IS AN INDIVIDUAL, IMPRISONMENT NOT**
28 **EXCEEDING 1 YEAR OR A FINE OF \$1,000 OR BOTH FOR EACH VIOLATION; OR**

29 **(2) IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING**
30 **\$1,000 OR LOSS OF PRIVILEGES TO CONDUCT A GAMING EVENT NOT EXCEEDING**
31 **60 DAYS OR BOTH FOR EACH VIOLATION.**

1 If a law enforcement officer has a reason to suspect a gaming device is kept
2 unlawfully at a place, the law enforcement officer shall:

3 (1) visit the place; and

4 (2) charge all persons who violate a law that prohibits gambling.

5 12-301.

6 In this subtitle:

7 (1) "slot machine" means a machine, apparatus, or device that:

8 (i) operates or can be made to operate by inserting, depositing,
9 or placing with another person money, a token, or another object; and

10 (ii) through the element of chance or any other outcome
11 unpredictable by the user, awards the user:

12 1. money, a token, or other object that represents or that
13 can be converted into money; or

14 2. the right to receive money, a token, or another object
15 that represents and can be converted into money; and

16 (2) "slot machine" includes:

17 (i) a machine, apparatus, or device described in item (1) of this
18 section that also sells, delivers, or awards merchandise, money, or some other tangible
19 thing of value; [and]

20 (ii) a pinball machine or console machine that pays off in
21 merchandise; **AND**

22 **(III) AN ELECTRONIC GAMING DEVICE UNDER § 12-108.1 OF**
23 **THIS TITLE.**

24 12-302.

25 (a) Except as allowed under §§ 12-304 through 12-306 of this subtitle, a
26 person may not locate, possess, keep, or operate a slot machine in the State as an
27 owner, lessor, lessee, licensor, licensee, or in any other capacity.

28 (b) A person who violates this section is guilty of a misdemeanor and on
29 conviction is subject to imprisonment not exceeding 1 year or a fine of \$1,000 or both
30 for each violation.

1 12-304.

2 (c) (1) In this subsection, a console or set of affixed slot machines is not
3 an individual slot machine.

4 (2) [Notwithstanding] **SUBJECT TO § 12-108.1 OF THIS TITLE BUT**
5 **NOTWITHSTANDING** any other provision of this subtitle, an eligible organization may
6 own and operate a slot machine if the eligible organization:

7 (i) obtains a license under subsection (e) of this section for each
8 slot machine;

9 (ii) owns each slot machine that the eligible organization
10 operates;

11 (iii) owns not more than five slot machines;

12 (iv) locates and operates its slot machines at its principal
13 meeting hall in the county in which the eligible organization is located;

14 (v) does not locate or operate its slot machines in a private
15 commercial facility;

16 (vi) uses:

17 1. at least one-half of the proceeds from its slot
18 machines for the benefit of a charity; and

19 2. the remainder of the proceeds from its slot machines
20 to further the purposes of the eligible organization;

21 (vii) does not use any of the proceeds of the slot machine for the
22 financial benefit of an individual; and

23 (viii) reports annually under affidavit to the State Comptroller:

24 1. the income of each slot machine; and

25 2. the disposition of the income from each slot machine.

26 13-101.

27 (A) [Activities] **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B)**
28 **OF THIS SECTION, ACTIVITIES** conducted under this title are allowed
29 notwithstanding the provisions of Title 12, Subtitles 1 and 2 of this article.

1 **(B) THE OPERATION OF AN ELECTRONIC GAMING DEVICE IN ANY**
2 **ACTIVITY CONDUCTED UNDER THIS TITLE IS SUBJECT TO § 12-108.1 OF THIS**
3 **ARTICLE.**

4 13-203.

5 This title and Title 12 of this article do not prohibit a qualified organization
6 from conducting a gaming event for the exclusive benefit of a qualified organization if
7 an individual or group of individuals does not:

8 (1) benefit financially from the gaming event under this subtitle; or

9 (2) receive any of the proceeds from the gaming event under this
10 subtitle for personal use or benefit.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
12 measure, is necessary for the immediate preservation of the public health or safety,
13 has been passed by a ye and nay vote supported by three-fifths of all the members
14 elected to each of the two Houses of the General Assembly, and shall take effect from
15 the date it is enacted.