

HOUSE BILL 777

C7

9lr2744

By: **Delegates Bromwell, Boteler, DeBoy, Frank, Impallaria, Jennings, Kach, Minnick, Schuler, Tarrant, and Weir**

Introduced and read first time: February 11, 2009

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Video Lottery Terminals – Baltimore–Washington International Thurgood**
3 **Marshall Airport**

4 FOR the purpose of altering the number of video lottery operation licenses and video
5 lottery terminals that may be awarded by the Video Lottery Facility Location
6 Commission to provide for the award of a video lottery operation license at
7 Baltimore–Washington International Thurgood Marshall Airport under certain
8 conditions; providing that a certain restriction on the number of video lottery
9 operation licenses that may be awarded in a county or Baltimore City is not
10 applicable; providing that a bid for a certain video lottery operation license be
11 made by a certain date; making this Act contingent on the passage and
12 ratification of a certain constitutional amendment; and generally relating to the
13 operation of video lottery terminals at a certain location in the State.

14 BY repealing and reenacting, with amendments,
15 Article – State Government
16 Section 9–1A–05(a) and 9–1A–36(f), (g), (h), (i), (j), and (p)
17 Annotated Code of Maryland
18 (2004 Replacement Volume and 2008 Supplement)

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

21 **Article – State Government**

22 9–1A–05.

23 (a) The Video Lottery Facility Location Commission established under §
24 9–1A–36 of this subtitle may not:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) issue more than [five] **SIX** video lottery operation licenses;

2 (2) award more than [15,000] **18,000** video lottery terminals for
3 operation at video lottery facilities in the State; [and]

4 (3) subject to the requirements of **PARAGRAPH (4) OF THIS**
5 **SUBSECTION AND § 9-1A-36(h) and (i)** of this subtitle, award more than 4,750
6 terminals for operation at any video lottery facility; **AND**

7 **(4) AWARD MORE THAN 3,000 VIDEO LOTTERY TERMINALS FOR**
8 **OPERATION AT BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD**
9 **MARSHALL AIRPORT.**

10 9-1A-36.

11 (f) The Video Lottery Facility Location Commission may award not more
12 than [five] **SIX** video lottery operation licenses to qualified bidders, through a
13 competitive bidding process consistent with the process for competitive sealed
14 proposals under Title 13 of the State Finance and Procurement Article.

15 (g) **(1) THIS SUBSECTION DOES NOT APPLY TO A VIDEO LOTTERY**
16 **OPERATION LICENSE AWARDED FOR OPERATION OF VIDEO LOTTERY**
17 **TERMINALS AT BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD**
18 **MARSHALL AIRPORT.**

19 **(2)** The Video Lottery Facility Location Commission may not award
20 more than one video lottery facility operation license in a single county or Baltimore
21 City.

22 (h) (1) In order to qualify for a video lottery operation license for a video
23 lottery destination location under this section, a proposed video lottery facility shall be
24 located in one of the following [counties] **LOCATIONS:**

25 (i) [a location] in Anne Arundel County, within 2 miles of MD
26 Route 295;

27 (ii) [a location] in Cecil County, within 2 miles of Interstate 95;

28 (iii) [a location] on State property associated with the Rocky Gap
29 State Park in Allegany County that shall be in a building that is physically separate
30 from the Rocky Gap Lodge and Golf Resort;

31 (iv) [a location] in Worcester County, within 1 mile of the
32 intersection of Route 50 and Route 589; [or]

33 (v) [a location] in Baltimore City **ON PROPERTY** that is:

- 1 1. located:
- 2 A. in a nonresidential area;
- 3 B. within one-half mile of Interstate 95;
- 4 C. within one-half mile of MD Route 295; and
- 5 D. on property that is owned by Baltimore City on the
- 6 date on which the application for a video lottery operation license is submitted; and
- 7 2. not adjacent to or within one-quarter mile of property
- 8 that is:
- 9 A. zoned for residential use; and
- 10 B. used for a residential dwelling on the date the
- 11 application for a video lottery operation license is submitted; **OR**

12 **(VI) AT THE TERMINAL BUILDING AND SURROUNDING AREA**

13 **WITHIN THE SECURITY PERIMETER OF BALTIMORE-WASHINGTON**

14 **INTERNATIONAL THURGOOD MARSHALL AIRPORT.**

15 (2) Nothing in paragraph (1)(v)1D of this subsection may be construed

16 to preempt the exclusive authority of the Video Lottery Facility Location Commission

17 to award video lottery operation licenses in accordance with this subtitle.

18 (3) (i) With respect to a video lottery operation license issued for a

19 location under paragraph (1)(iv) of this subsection, the holder of the video lottery

20 operation license or any other person with a direct or indirect legal or financial

21 interest in the Ocean Downs racetrack or video lottery facility may not:

22 1. build any type of hotel, motel, or other public lodging

23 accommodation on or within 10 miles of the property owned by the holder of the

24 license on which a video lottery facility is operated;

25 2. convert an existing facility on or within 10 miles of

26 the property described in item 1 of this subparagraph into any type of hotel, motel, or

27 other public lodging accommodation;

28 3. build or operate a conference center or convention

29 center, amusement park, amusement rides, arcade, or miniature golf course on or

30 within 10 miles of the property described in item 1 of this subparagraph; or

31 4. offer to patrons of the video lottery facility the playing

32 of live music, floor shows, dancing, dancing exhibitions, performances, or any other

1 form of live entertainment in or near the video lottery facility, provided that the holder
 2 of the video lottery operation license for the location under paragraph (1)(iv) of this
 3 subsection or another person with a direct or indirect legal or financial interest in the
 4 Ocean Downs racetrack or the video lottery facility may allow:

5 A. live fireworks displays to be conducted on the
 6 property; and

7 B. a single piano that is played by an individual.

8 (ii) The prohibitions under subparagraph (i) of this paragraph
 9 apply to any subsequent holder of a video lottery operation license issued under
 10 paragraph (1)(iv) of this subsection.

11 (i) (1) Except as provided in paragraphs (2) and (3) of this subsection, the
 12 Video Lottery Facility Location Commission may not allocate more than the following
 13 number of video lottery terminals for:

14 (i) a location in Anne Arundel County – 4,750 video lottery
 15 terminals;

16 (ii) a location in Baltimore City – 3,750 video lottery terminals;

17 (iii) a location in Cecil County – 2,500 video lottery terminals;

18 (iv) a location in Rocky Gap State Park (Allegany County) –
 19 1,500 video lottery terminals; [and]

20 (v) a location in Worcester County – 2,500 video lottery
 21 terminals; **AND**

22 **(VI) A LOCATION AT THE TERMINAL BUILDING AND**
 23 **SURROUNDING AREA WITHIN THE SECURITY PERIMETER OF**
 24 **BALTIMORE–WASHINGTON INTERNATIONAL THURGOOD MARSHALL AIRPORT –**
 25 **3,000 VIDEO LOTTERY TERMINALS.**

26 (2) [The] **EXCEPT AS PROVIDED IN § 9-1A-05(A)(4) OF THIS**
 27 **SUBTITLE, THE** Video Lottery Facility Location Commission may allocate video
 28 lottery terminals in a manner that is different from the allocation provided in
 29 paragraph (1) of this subsection on a determination that the market factors and other
 30 factors evaluated under subsection (k) of this section warrant the different allocation,
 31 provided that no one location may be allocated more than 4,750 video lottery
 32 terminals.

33 (3) (i) [Beginning] **EXCEPT AS PROVIDED IN § 9-1A-05(A)(4)**
 34 **OF THIS SUBTITLE, BEGINNING** with the termination date for the Video Lottery
 35 Facility Location Commission and every 3 years thereafter, if all of the video lottery

1 terminals authorized under this subtitle are not allocated or have been allocated but
2 are not in regular operation, the State Lottery Commission may allocate or reallocate
3 video lottery terminals to video lottery operation licensees in a manner that ensures
4 that the highest potential revenues are achieved.

5 (ii) In determining the highest potential revenues to be achieved
6 by additional video lottery terminals at each potential location, the State Lottery
7 Commission shall consider the market performance of the existing video lottery
8 terminals at each location.

9 (j) (1) **[A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
10 **SUBSECTION, A** bid submitted for a video lottery operation license at a video lottery
11 destination location under this section shall be submitted by February 1, 2009, and
12 shall include an initial license fee in the bid of at least \$3,000,000 for each 500 video
13 lottery terminals included in the bid.

14 **(2) A BID SUBMITTED FOR A VIDEO LOTTERY OPERATION**
15 **LICENSE AT BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD**
16 **MARSHALL AIRPORT SHALL BE SUBMITTED BY APRIL 15, 2011.**

17 **[(2)] (3)** All initial license fees submitted under this subtitle shall
18 accrue to the Education Trust Fund established under §
19 9-1A-30 of this subtitle.

20 **[(3)] (4)** A bid submitted for a video lottery operation license under
21 this section shall provide for at least \$25,000,000 in direct investment by the applicant
22 in construction and related costs for each 500 video lottery terminals contained in the
23 proposed bid that shall be prorated based on the exact number of video lottery
24 terminals contained in the bid.

25 (p) (1) Nothing in this subtitle may be construed to require the Video
26 Lottery Facility Location Commission to issue all **[five] SIX** video lottery operation
27 licenses authorized under this subtitle.

28 (2) Notwithstanding any of the provisions of this subtitle, the Video
29 Lottery Facility Location Commission may not award a video lottery operation license
30 under this subtitle unless the Video Lottery Facility Location Commission determines
31 and declares that a bid selected for award of the license is in the public interest and is
32 consistent with the purposes of this subtitle.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on
34 the passage of Chapter ____ (S.B. ____/H.B. ____)(9lr2925) of the Acts of the General
35 Assembly of 2009, a constitutional amendment, and its ratification by the voters of the
36 State.

37 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions
38 of Section 2 of this Act, this Act shall take effect on the proclamation of the Governor

- 1 that the constitutional amendment, having received a majority of the votes cast at the
- 2 general election, has been adopted by the people of Maryland.