

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 56
Ways and Means

(Delegates Conway and Mathias)

Budget and Taxation

Worcester County - Slot Machines for Nonprofit Organizations

This bill adds Worcester County to the list of Eastern Shore counties in which eligible nonprofit fraternal, religious, and war veterans' organizations may own and operate up to five slot machines at its principal meeting hall. At least one-half of the proceeds must go to charity and the remainder to further the organizations' purposes.

Fiscal Summary

State Effect: Potential decrease in special fund revenues and expenditures from the Video Lottery Terminal Program beginning in FY 2011. Under one set of assumptions, State revenues may decrease by \$100,000 annually.

Local Effect: Minimal increase in Worcester County revenues from annual slot machine license fees. County expenditures are not affected.

Small Business Effect: None.

Analysis

Bill Summary: In order to operate a slot machine, an eligible organization must obtain a license from the Worcester County Sheriff's Office and pay a fee of \$50 per machine annually to the county. An organization may not own more than five slot machines and must own each slot machine in operation. The slot machines must be located at the principal meeting hall of the organization and cannot be operated at a private commercial facility. The slot machine must be equipped with a tamperproof meter or counter that accurately records gross receipts.

At least one-half of the proceeds generated from slot machines must go to charity. The remainder of the proceeds must go to the organization. An individual cannot benefit financially from the proceeds. The organization must keep accurate records of gross receipts and payouts from slot machines and must report annually under affidavit to the Comptroller's Office the income from each slot machine and the disposition of these proceeds. The Comptroller's Office, however, does not have authority to audit these reports.

Current Law: Generally, it is a misdemeanor crime to possess or operate a slot machine in Maryland. However, legislation was enacted in 1987 and 2007 authorizing certain nonprofit organizations to operate slot machines in the following eight Eastern Shore counties: Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, and Wicomico. The 1987 legislation required a nonprofit organization to be located in the county for at least five years prior to the application for a license and to be a fraternal, religious, or war veterans' organization.

Chapter 645 of 2007 expanded the list of eligible organizations that may be licensed to operate slot machines to include those that have been affiliated with a national fraternal organization for less than 5 years but have been located within an eligible county for at least 50 years before applying for a license.

During the 2007 special session, the General Assembly adopted two pieces of legislation pertaining to video lottery terminal (VLT) gambling – Chapter 4 (Senate Bill 3) and Chapter 5 (House Bill 4). Chapter 5 was a constitutional amendment approved by the voters at the November 2008 general election that authorized the expansion of gambling subject to specified restrictions. The constitutional amendment provided that (1) a maximum of five VLT facility licenses may be awarded within specified areas of the State; (2) no more than one facility license may be awarded in any county or Baltimore City; (3) a maximum of 15,000 VLTs may be authorized; and (4) VLT facilities must comply with any applicable planning and zoning laws of a local jurisdiction.

Chapter 4, which was contingent on ratification of Chapter 5, established the operational and regulatory framework for the VLT program. Under Chapter 4, VLT facility operation licenses are awarded by a Video Lottery Facility Location Commission (Location Commission). The State Lottery Commission will oversee VLT operations and will own/lease the VLTs and a central monitor and control system. Chapter 4 allows for a maximum of 15,000 machines, distributed as follows: 4,750 VLTs in Anne Arundel County; 3,750 VLTs in Baltimore City; 2,500 VLTs in Worcester County; 2,500 VLTs in Cecil County; and 1,500 VLTs in Allegany County. In addition, geographic parameters for each jurisdiction within which a VLT facility may be located are provided. The Location Commission may alter VLT allocations if warranted by an evaluation of market and other factors; however, no more than 4,750 VLTs may be placed at any one location.

Background: In fiscal 2008, 52 nonprofit organizations on the Eastern Shore operated slot machines. These organizations donated approximately \$3.6 million to charity. Unaudited reports with complete data were available for 50 of the organizations. The total amount bet at these 50 organizations was approximately \$52 million, 87% of which was returned to gamblers. Of the approximately \$6.6 million in net proceeds, \$3.3 million (51%) was disbursed to charity. The Department of Legislative Services (DLS) notes that in reviewing the fiscal 2008 data, it appeared that several organizations were not in compliance with the 50% charity requirement or misclassified some contributions as charitable. Several organizations submitted returns that were incomplete or mathematically incorrect.

The State Lottery Agency conducted a study of local gaming in Maryland required by Chapter 474 of 2008. The report indicates (similar to DLS findings) that in fiscal 2008, 273 slot machines on the Eastern Shore generated \$54.8 million in total “handle” or bets. However, the report shows no reliable or consistent relationship between the current presence of slot machines and lottery sales. **Exhibit 1** shows the slot machine handle by county.

The Location Commission has awarded three video lottery operation licenses to date. Among these, on September 23, 2009, the Location Commission awarded Ocean Enterprise 589 LLC (OE 589) a license to operate a facility with 800 VLTs at Ocean Downs Racetrack in Worcester County. OE 589 paid the initial license fee of \$4.8 million for the 800 VLTs and plans to spend \$45.0 million to construct a 34,000 square foot VLT facility. The facility is scheduled to open in fall 2010 with 600 VLTs, with the full complement of 800 VLTs in place by April of 2011.

Exhibit 1
Slot Machine Handle for Eastern Shore Counties
Fiscal 2008
(\$ in Millions)

| <u>County</u> | <u>Slot Machines</u> | <u>Handle*</u> |
|---------------|----------------------|----------------|
| Caroline | 20 | \$2.4 |
| Cecil | 55 | 14.9 |
| Dorchester | 30 | 4.5 |
| Kent | 25 | 1.5 |
| Queen Anne’s | 30 | 6.3 |
| Somerset | 24 | 2.5 |
| Talbot | 30 | 4.6 |
| Wicomico | 59 | 18.0 |
| Total | 273 | \$54.8 |

*Numbers may not sum to the total due to rounding.

Source: Maryland State Lottery Agency

State Fiscal Effect: State special fund revenues and expenditures may be reduced, depending on the degree to which eligible nonprofits in Worcester County are licensed to operate and implement slot machines. These machines may serve as a substitute for gambling at VLT facilities in the State, particularly the VLT facility that is scheduled to open in fall 2010 at Ocean Downs Racetrack in Worcester County.

Gambling at the newly eligible nonprofit organizations would represent a shift of spending from other activities, a portion of which are taxable by the State. Numerous studies have examined the relationship between expanded VLT gambling and the substitution effect this expansion has on existing VLT revenues or other State revenues such as the lottery and sales tax. Most of these studies conclude that although total revenues might increase from expanded gambling there is a negative impact on existing revenue streams that partially offsets the revenue from expanded gambling. For example, DLS estimates that VLTs, when fully implemented, will cause a permanent 10% reduction in annual revenues from lottery.

The average annual revenue generated from existing gambling at eligible nonprofits is approximately \$130,000 (*i.e.*, total handle minus total amount returned to players) per organization. The bill would add an estimated eight organizations offering slots play; assuming 5 machines at each results in 40 slot machines generating approximately \$1 million in revenue annually. A small portion of this would likely have otherwise been spent at State VLT facilities. If that portion is 10%, the result is an annual loss of \$100,000 in special fund revenues. The impact to the State would include a \$48,500 reduction in Education Trust Fund revenues and a \$2,000 loss in revenues for State lottery administration of the VLT program. **Exhibit 2** shows the reduction in special fund distributions from the total reduction of \$100,000 illustrated above.

Exhibit 2
Illustration of Reduced VLT Program Distribution

| | |
|-------------------------------------|------------------|
| Education Trust Fund (48.5%) | \$48,500 |
| Licensees (33%) | 33,000 |
| Purse Dedication Account (7%) | 7,000 |
| Local Impact Grants (5.5%) | 5,500 |
| Racetrack Renewal (2.5%) | 2,500 |
| Lottery Operations (2%) | 2,000 |
| Minority Business Investment (1.5%) | 1,500 |
| Total Reduction | \$100,000 |

Additional Information

Prior Introductions: HB 65 of 2009 passed in the House and received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. HB 1008 of 2008 passed in the House and received a favorable report from the Senate Budget and Taxation Committee, but failed to pass in the Senate.

Cross File: None.

Information Source(s): Worcester County, Comptroller's Office, Maryland State Lottery Agency, Department of Legislative Services

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ncs/rhh

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