

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 608  
Ways and Means

(Delegate F. Turner, *et al.*)

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Video Lottery Gaming - Table Games

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This proposed constitutional amendment authorizes the holder of a video lottery operation license to offer table games, including poker, blackjack, craps, and roulette, to the public.

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Fiscal Summary

**State Effect:** The proposed constitutional amendment does not provide for limitations on, or regulation of, table games at video lottery terminal (VLT) facilities, or for the distribution of any proceeds. It is assumed that additional legislation would be required to implement operation of table games at VLT facilities.

**Local Effect:** If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2010 general election. The amendment's requirements can be handled using existing resources within the local boards of election.

**Small Business Effect:** None.

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Analysis

**Current Law:** Except when specifically authorized, a gaming device is prohibited in the State if it is a gaming table, except a billiard table, at which a game of chance is played for money or any other thing or consideration of value; or a game or device at which money or any other thing or consideration of value is bet, wagered, or gambled. Gaming devices include a paddle wheel, wheel of fortune, chance book, and bingo.

A person may not bet, wager, or gamble; make or sell a book or pool on the results of a race, contest, or contingency; establish, keep, rent, use, or occupy, or knowingly allow to be established, kept, rented, used, or occupied, all or a part of a building, vessel, or place on land or water, within the State for the purpose of:

- betting, wagering, or gambling;
- making, selling, or buying books or pools; or
- receiving, becoming the depository of, or forwarding money or anything of consideration of value, to be bet, wagered, or gambled on the result of a race, contest, or contingency.

The State allows specified types of gambling, including the State lottery and wagering on horse racing. Bingo, bazaars, gaming nights, and raffles are allowed for some nonprofit organizations on a county-by-county basis. Several counties permit for-profit bingo. In addition, some nonprofit organizations in Eastern Shore counties are allowed to operate up to five slot machines, provided that at least 50% of the proceeds go to charity.

#### *VLT Program*

During the 2007 special session, the General Assembly adopted two pieces of legislation pertaining to 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. Among the restrictions, only after approval of a referendum by the majority of Maryland voters during a general election may the General Assembly authorize additional forms or expansion of commercial gaming.

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.

The allocation of the gross VLT revenues, after payouts to bettors, is as follows:

- **Small, Minority, and Women-owned Business Investment Account:** 1.5% to a small, minority, and women-owned business investment account;
- **State Lottery:** 2.0% to the lottery for administrative costs, with other costs provided for in the annual State budget;
- **Local Impact Grants:** 5.5% to local governments where a video lottery facility is operating, 18.0% of which would go for 15 years (starting in fiscal 2012) to Baltimore City through the Pimlico Community Development Authority and to Prince George's County for the community surrounding Rosecroft (\$1 million annually);
- **Horse Racing Industry:** 7.0% to a purse dedication account to enhance horse racing purses and funds for the horse breeding industry, not to exceed \$100 million annually; and 2.5% for an eight-year period to a Racetrack Facility Redevelopment Account, not to exceed \$40 million annually;
- **Licensee (Operator):** 33.0% to video lottery operation licensees; and
- **Education Trust Fund:** the remainder (48.5 to 51.0%) to the Education Trust Fund.

Revenues accruing to the Education Trust Fund are to be used for the Bridge to Excellence in Public Schools Act funding (including the Geographic Cost of Education Index), public school construction funding, and public higher education construction, including community colleges.

**Background:** Maryland's competition for gambling revenues comes primarily from three surrounding states: Delaware, Pennsylvania, and West Virginia. As of December 2009, three racetrack facilities with approximately 7,500 VLTs are operating in Delaware, nine facilities with approximately 25,000 VLTs are operating in Pennsylvania, and four racetrack facilities with well over 10,000 VLTs are operating in West Virginia. A total of 14 casinos are authorized in Pennsylvania. Average win-per-day per VLT for the 12-month period ending September 2009 ranged from \$163 to \$212 for facilities in Delaware, from \$189 to \$336 for facilities in Pennsylvania, and \$96 to \$238 for facilities in West Virginia.

Limited numbers of VLTs (Limited Video Lottery, or LVL) are also available at licensed West Virginia bars, clubs, and fraternal organizations. As of June 30, 2009, 7,960 of the

9,000 maximum authorized were operating at over 1,600 licensed locations throughout the state.

Table games have been offered at three of West Virginia's four VLT casinos since 2008; the fourth, Charles Town Races and Slots, recently gained voter approval to install table games. Table games are also available at the Greenbrier Resort in West Virginia. Both Pennsylvania and Delaware recently enacted legislation authorizing table games at their VLT facilities. Pennsylvania's law authorizes up to 250 table games each at large casinos and 50 games each at smaller resort casinos. Table gaming could be operating by summer 2010 in both states.

West Virginia table games generated gross income of \$34 million in fiscal 2009. By comparison, also in fiscal 2009, racetrack VLT gross income totaled \$848 million and LVL gross income totaled \$412 million.

The typical Atlantic City, New Jersey casino has about 150 gaming tables. Table games offered at 11 casinos in New Jersey generate approximately \$2,100 in win-per-table per day. Gross income for the month of January 2010 in New Jersey for the 1,650 gaming tables in operation totaled \$98.7 million; compared to \$195.5 million generated from the 30,700 slot machines in these New Jersey casinos.

Further, Delaware has recently reinstated parlay (not single-game) betting on National Football League games.

#### *VLT Program Implementation*

The Location Commission has awarded three video lottery operation licenses to date. PPE Casino Resorts Maryland, LLC (PPE Casino Resorts) was awarded a license to operate a 4,750 VLT facility in Hanover in Anne Arundel County, contingent upon local zoning approval. Anne Arundel County Council approved favorable zoning legislation on December 21, 2009, which the county executive signed into law on December 22, 2009. The law has not gone into effect pending certification of a petition to require local voter approval of the law at the November 2010 election. PPE Casino Resorts expects to open a permanent facility adjacent to Arundel Mills Mall with 4,750 VLTs in December 2011.

Penn Cecil Maryland, Inc. (Penn Cecil) was awarded a license to operate a facility with 1,500 VLTs in Perryville in Cecil County. Penn Cecil is currently on schedule to open a permanent facility with 1,500 VLTs in October 2010.

Ocean Enterprise 589 LLC (OE 589) was awarded a license to operate a facility with 800 VLTs at Ocean Downs Racetrack in Worcester County. The facility is currently

scheduled to open in fall 2010 with 600 VLTs, with the full complement of 800 VLTs in place by April 2011.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 795 (Senator Pugh) - Budget and Taxation.

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

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