

HOUSE BILL 344

C7

0lr1314
CF 0lr1316

By: **Charles County Delegation**

Introduced and read first time: January 20, 2020

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Video Lottery Operation License – Expansion and Alterations**

3 FOR the purpose of authorizing the awarding of an additional video lottery operation
4 license and a certain number of additional video lottery terminals for a video lottery
5 facility at a certain location in Charles County; repealing a certain prohibition
6 against an individual or a business entity owning an interest in more than one video
7 lottery facility; repealing certain prohibitions against a video lottery operation
8 licensee providing food or alcoholic beverages to individuals at no cost; altering the
9 amount the Comptroller pays to a video lottery operation licensee from the proceeds
10 of video lottery terminals; repealing a certain prohibition against a holder of a video
11 lottery operation license or any other person with a certain interest in the Ocean
12 Downs racetrack or video lottery facility from building or operating certain
13 structures within a certain area; authorizing the Governor to reconstitute the Video
14 Lottery Facility Location Commission for a certain purpose; making certain
15 conforming changes; repealing certain obsolete provisions; submitting this Act to a
16 referendum of the qualified voters of the State for their adoption or rejection; and
17 generally relating to authorizing an additional video lottery operation license and
18 additional video lottery terminals.

19 BY repealing and reenacting, without amendments,
20 Article – State Government
21 Section 9–1A–02(d)
22 Annotated Code of Maryland
23 (2014 Replacement Volume and 2019 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – State Government
26 Section 9–1A–05(a) and (d), 9–1A–24, 9–1A–26(a)(3), 9–1A–27, and 9–1A–36(f), (h),
27 (i)(1), (r)(1), and (t)
28 Annotated Code of Maryland
29 (2014 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – State Government

9–1A–02.

(d) Only a person with a video lottery operation license issued under this subtitle may offer a video lottery terminal and table games for public use in the State under this subtitle.

9–1A–05.

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

(1) award more than ~~[six]~~ **SEVEN** video lottery operation licenses;

(2) award more than ~~[16,500]~~ **18,000** video lottery terminals for operation at video lottery facilities in the State;

(3) subject to the requirements of § 9–1A–36(h) and (i) of this subtitle, award more than 4,750 terminals for operation at any video lottery facility; and

(4) for a location in Allegany County:

(i) award a video lottery operation license to an applicant that does not agree to purchase the Rocky Gap Lodge and Resort; and

(ii) notwithstanding § 9–1A–36(i)(2) of this subtitle, award more than 1,500 video lottery terminals for operation at a video lottery facility in Allegany County.

(d) (1) In this subsection, “owner” includes any type of owner or beneficiary of a business entity, including an officer, director, principal employee, partner, investor, stockholder, or beneficial owner of the business entity and, notwithstanding any other provisions of this subtitle, including a person having any ownership interest regardless of the percentage of ownership interest.

(2) An individual or business entity may ~~[not]~~ own an interest in more than one video lottery facility.

(3) A member of the Senate of Maryland or the House of Delegates may not be an owner or an employee of any business entity that holds a video lottery operation license.

(4) Notwithstanding paragraphs (1) and (2) of this subsection[:

(i)] an individual or business entity may enter into a management agreement to operate a facility located in Allegany County that it does not own, subject to the approval of the Video Lottery Facility Location Commission and the State Lottery and Gaming Control Commission[; and

(ii) a holder of a video lottery operation license may apply to the Video Lottery Facility Location Commission for an additional license provided that the application required under § 9–1A–36 of this subtitle includes a plan for divesting from the video lottery operation license held on the date of the application].

9–1A–24.

(a) [Except as provided in subsection (b) of this section, the] **THE** Commission shall ensure that a video lottery operation licensee complies with the requirements of this section as a condition of holding the video lottery operation license.

[(b) (1) The county alcoholic beverages licensing authority for the county in which a video lottery facility is located shall ensure that the video lottery operation licensee complies with the requirements of this subsection.

(2) Except as provided in paragraph (4) of this subsection, a video lottery operation licensee may not provide food or alcoholic beverages to individuals at no cost.

(3) Any food or alcoholic beverages offered by a video lottery operation licensee for sale to individuals may be offered only at prices that are determined by the county alcoholic beverages licensing authority to be commensurate with the price of similar types of food and alcoholic beverages at restaurants in the county in which the video lottery facility is located.

(4) A video lottery operation licensee may provide food at no cost to individuals to the same extent allowed under § 5–303 of the Alcoholic Beverages Article for a person engaged in the sale or barter of spirituous, malt, or intoxicating liquors and licensed under the laws of Maryland.]

[(c)] **(B)** (1) Except as provided in paragraph (2) of this subsection, a video lottery operation licensee shall ensure that intoxicated individuals and individuals under the age of 21 years are not allowed to play video lottery terminals or table games and are not allowed in areas of the video lottery facility where video lottery terminals or table games are located.

(2) A video lottery operation licensee may allow a video lottery employee who is an adult to enter or remain in an area within the video lottery facility that is designated for table game or video lottery terminal activities if the video lottery employee is working.

1 **[(d)] (C)** (1) By regulation, the Commission shall provide for the
2 establishment of a list of individuals who are to be mandatorily excluded or ejected by a
3 video lottery operation licensee from any video lottery operation licensed under this
4 subtitle.

5 (2) The regulations under this subsection shall define the standards for
6 exclusion or ejection and shall include standards relating to individuals:

7 (i) who are career offenders as defined by regulations adopted by the
8 Commission;

9 (ii) who have been convicted of a criminal offense under the laws of
10 the United States or any jurisdiction within the United States that is a criminal offense
11 involving moral turpitude or a gambling offense; or

12 (iii) whose presence in the establishment of a licensee would be
13 adverse to the interest of the State, the licensee, or the person.

14 (3) The Commission may impose sanctions on a licensee in accordance with
15 this subtitle if the licensee knowingly fails to exclude or eject from the premises of the
16 licensee an individual placed by the Commission on the list of individuals to be excluded or
17 ejected.

18 (4) An order under this subsection is subject to judicial review.

19 **[(e)] (D)** (1) By regulation, the Commission shall adopt measures that are
20 intended to reduce or mitigate the effects of problem gambling.

21 (2) The regulations shall:

22 (i) include establishment of a voluntary exclusion list of individuals
23 with gambling problems who have requested to be excluded from any video lottery
24 operation licensed under this subtitle; and

25 (ii) provide a simple mechanism for an individual who is sober and
26 informed to request placement on the voluntary exclusion list for a specified period of time.

27 (3) A video lottery operation licensee may not permit an individual on the
28 voluntary exclusion list to enter into the video lottery facility or to play a video lottery
29 terminal.

30 (4) The Commission may impose sanctions on a licensee in accordance with
31 this subtitle if the licensee knowingly fails to exclude from the premises of the licensee an
32 individual on the voluntary exclusion list.

33 **[(f)] (E)** In order to protect the public interest, the regulations shall include

1 provisions that:

2 (1) limit the number and location of and maximum withdrawal amounts
3 from automated teller machines;

4 (2) prohibit authorized automated teller machines from accepting
5 electronic benefit cards, debit cards, or similar negotiable instruments issued by the
6 Department of Human Services for the purpose of accessing temporary cash assistance;

7 (3) require payouts above an amount adopted by the Commission to be
8 made by check;

9 (4) require conspicuous disclosures related to the payout of video lottery
10 terminals;

11 (5) limit the dollar amount that video lottery terminals will accept;

12 (6) prohibit the use of specified negotiable instruments at video lottery
13 facilities and the use of credit cards, debit cards, and similar devices in video lottery
14 terminals;

15 (7) provide consumers with a record of video lottery terminal spending
16 levels if marketing measures are utilized that track consumer spending at video lottery
17 facilities;

18 (8) prohibit consumers from cashing paychecks at video lottery facilities;
19 and

20 (9) prohibit video lottery operation licensees from engaging in or
21 contracting with another to engage in predatory marketing practices.

22 **[(g)] (F)** (1) A video lottery operation licensee may not, directly or indirectly,
23 interfere with, hinder, obstruct, impede, or take any action to delay the implementation or
24 establishment of a video lottery facility by any other licensee or applicant for a video lottery
25 operation license awarded or issued under this subtitle.

26 (2) (i) The Commission shall adopt regulations, to the fullest extent
27 allowed by the first amendment of the Constitution of the United States, to carry out the
28 provisions of this subsection.

29 (ii) The regulations adopted under this subsection shall include
30 provisions:

31 1. that expressly prohibit:

32 A. taking any of the actions described in paragraph (1) of this
33 subsection relating to the issuance of required State or local governmental approvals for

the establishment of a video lottery facility; or

B. providing funding or other material support to engage in any of the actions described in paragraph (1) of this subsection;

2. that prohibit, as unlawful indirect conduct, activity:

A. by an entity in which the licensee owns a beneficial or proprietary interest; or

B. by an entity in which an affiliate of the licensee owns a beneficial or proprietary interest; and

3. that allow the Commission to impose sanctions and penalties in accordance with § 9–1A–25 of this subtitle if a licensee knowingly violates paragraph (1) of this subsection.

9–1A–26.

(a) (3) The amount from the proceeds of video lottery terminals to be paid to video lottery operation licensees under § 9–1A–27(a)(2), (7), and (8)[, (b), and (c)(1)(ii)] **AND (B)(1)(II)** and (2) of this subtitle shall be retained by the licensee.

9–1A–27.

(a) Except as provided in subsections (b) and (c) of this section and § 9–1A–26(a)(3) of this subtitle, on a properly approved transmittal prepared by the Commission, the Comptroller shall pay the following amounts from the proceeds of video lottery terminals at each video lottery facility:

(1) [(i) on or before March 31, 2015, 2% to the State Lottery and Gaming Control Agency for costs as defined in § 9–1A–01 of this subtitle; and

(ii) beginning April 1, 2015,] 1% to the State Lottery and Gaming Control Agency for costs as defined in § 9–1A–01 of this subtitle;

(2) **40%** to the video lottery operation licensee[, the percentage stated in the accepted application for the location, not to exceed, except as provided in subsection (b) of this section, 33%];

(3) 5.5% in local impact grants, in accordance with § 9–1A–31 of this subtitle;

(4) 6% to the Purse Dedication Account established under § 9–1A–28 of this subtitle, not to exceed a total of \$100,000,000 to the Account annually;

(5) [(i) until the issuance of a video lottery operation license in Baltimore City, 1.75% to the Racetrack Facility Renewal Account established under § 9-1A-29 of this subtitle and distributed in accordance with that section; and

(ii) on or after the issuance of a video lottery operation license in Baltimore City,] 1% to the Racetrack Facility Renewal Account established under § 9-1A-29 of this subtitle and distributed in accordance with that section, not to exceed a total of \$20,000,000 to the Account annually;

(6) (i) except as provided in items (ii) and (iii) of this item, 1.5% to the Small, Minority, and Women-Owned Businesses Account established under § 5-1501 of the Economic Development Article;

(ii) for fiscal year 2018, 1.5% to the General Fund to pay a portion of the costs of the grants provided under Chapters 6 and 607 of the Acts of the General Assembly of 2017;

(iii) for fiscal years 2019 and 2020, 1.5% to the Education Trust Fund established under § 9-1A-30 of this subtitle; and

(iv) beginning in fiscal year 2021, from the amount paid to the Small, Minority, and Women-Owned Businesses Account under item (i) of this item, up to 5%, not to exceed \$1,000,000, to the Nonprofit, Interest-Free, Micro Bridge Loan (NIMBL) Account established under § 5-1204 of the Economic Development Article;

(7) (i) except as provided in items (ii) and (iii) of this item, 6% to the video lottery operation licensee if the video lottery operation licensee owns or leases each video lottery terminal device and the associated equipment and software;

(ii) 8% to the video lottery operation licensee in Anne Arundel County; and

(iii) 10% to the video lottery operation licensee in Allegany County or Worcester County if the video lottery operation licensee assumes ownership or the right to lease each video lottery terminal device and the associated equipment and software used by the facility before January 1, 2019;

(8) beginning after the issuance of a video lottery operation license for a video lottery facility in Prince George's County, 8% to the video lottery operation licensee in Anne Arundel County and 7% to the licensee in Baltimore City for:

(i) marketing, advertising, and promotional costs required under § 9-1A-23 of this subtitle; and

(ii) capital improvements at the video lottery facilities; and

(9) the remainder to the Education Trust Fund established under

§ 9–1A–30 of this subtitle.

[(b) (1) Beginning July 1, 2013, for a video lottery facility in Worcester County with less than 1,000 video lottery terminals, the percentage in subsection (a)(2) of this section is equal to 43% provided that each year an amount equivalent to 2.5% of the proceeds from video lottery terminals at the video lottery facility is spent on capital improvements at the video lottery facility.

(2) After the first 10 years of operations at a video lottery facility in Allegany County, the percentage:

(i) in subsection (a)(2) of this section is equal to 43% provided that each year an amount equivalent to 2.5% of the proceeds from video lottery terminals at the video lottery facility is spent on capital improvements at the video lottery facility; and

(ii) in subsection (a)(1) of this section is equal to 2%.

(3) For a video lottery facility in Prince George's County, the percentage in subsection (a)(2) of this section stated in the accepted application for the location may not exceed 38%.]

[(c)] **(B)** (1) For the first 10 years of operations at a video lottery facility in Allegany County, on a properly approved transmittal prepared by the Commission, the Comptroller shall pay the following amounts from the proceeds of video lottery terminals at a video lottery facility in Allegany County:

(i) 1% to the State Lottery and Gaming Control Agency for costs as defined in § 9–1A–01 of this subtitle;

(ii) to the video lottery operation licensee, the percentage stated in the accepted application for the location, not to exceed 50%;

(iii) 3.75% in local impact grants, in accordance with § 9–1A–31 of this subtitle;

(iv) 2.5% to the Purse Dedication Account established under § 9–1A–28 of this subtitle;

(v) 1. except as provided in items 2 and 3 of this item, 0.75% to the Small, Minority, and Women-Owned Businesses Account established under § 5–1501 of the Economic Development Article;

2. for fiscal year 2018, 0.75% to the General Fund to pay a portion of the costs of the grants provided under Chapters 6 and 607 of the Acts of the General Assembly of 2017; and

3. for fiscal years 2019 and 2020, 0.75% to the Education

1 Trust Fund established under § 9–1A–30 of this subtitle; and

2 (vi) the remainder to the Education Trust Fund established under
3 § 9–1A–30 of this subtitle.

4 (2) After the first 10 years of operations at a video lottery facility in
5 Allegany County, the proceeds generated at the facility in Allegany County shall be
6 allocated as provided in [subsections (a) and (b)] **SUBSECTION (A)** of this section.

7 **[(d)] (C)** (1) Each video lottery operation licensee shall retain 80% of the
8 proceeds of table games at the video lottery facility.

9 (2) On a properly approved transmittal prepared by the Commission, the
10 Comptroller shall pay the following amounts from the proceeds of table games at each video
11 lottery facility:

12 (i) 5% to the local jurisdiction in which the video lottery facility is
13 located, provided that:

14 1. 50% of the proceeds paid to Baltimore City shall be used
15 to fund school construction projects; and

16 2. 50% of the proceeds paid to Baltimore City shall be used
17 to fund the maintenance, operation, and construction of recreational facilities; and

18 (ii) 15% to the Education Trust Fund established under § 9–1A–30
19 of this subtitle.

20 **[(e)] (D)** (1) If the costs of the State Lottery and Gaming Control Agency are
21 less than the proceeds specified in subsection (a)(1) of this section, any amount not
22 distributed to the State Lottery and Gaming Control Agency shall be paid to the Education
23 Trust Fund established under § 9–1A–30 of this subtitle.

24 (2) The costs of the Commission shall be as provided in the State budget.

25 **[(f)] (E)** On or before December 1, 2019, and every year thereafter, the State
26 Lottery and Gaming Control Commission shall report to the Governor and, in accordance
27 with § 2–1257 of this article, the General Assembly on the distribution of proceeds of video
28 lottery terminals to licensees for the procurement of video lottery terminals; marketing,
29 advertising, and promotional costs; and capital improvements and the distributions of local
30 impact grants to jurisdictions under § 9–1A–31 of this subtitle.

31 **[(g)] (F)** Baltimore City shall report to the Baltimore City Senate and House
32 Delegations by December 31 of each year as to the distribution and use of the funds
33 provided under subsection **[(d)] (C)** of this section.

9–1A–36.

(f) The Video Lottery Facility Location Commission may award not more than [six] SEVEN video lottery operation licenses to qualified applicants, through a competitive process consistent with the process for competitive sealed proposals under Title 13 of the State Finance and Procurement Article.

(h) (1) In order to qualify for a video lottery operation license under this section, a proposed video lottery facility shall be located in one of the following counties:

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

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

(iii) a location on State property associated with the Rocky Gap State Park in Allegany County;

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

(v) a location in Baltimore City that is:

1. located:

A. in a nonresidential area;

B. within one-half mile of Interstate 95;

C. within one-half mile of MD Route 295; and

D. on property that is owned by Baltimore City on the date on which the application for a video lottery operation license is submitted; and

2. not adjacent to or within one-quarter mile of property that is:

A. zoned for residential use; and

B. used for a residential dwelling on the date the application for a video lottery operation license is submitted; [or]

(vi) a location in Prince George's County within a 4-mile radius of the intersection of Bock Road and St. Barnabas Road; OR

(VII) SUBJECT TO § 16–105 OF THE ENVIRONMENT ARTICLE, A

1 **LOCATION IN CHARLES COUNTY ON A VESSEL MOORED TO A PIER ON THE POTOMAC**
2 **RIVER, WITHIN 1 MILE OF WASHINGTON AVENUE IN COLONIAL BEACH, VIRGINIA.**

3 (2) Nothing in this subtitle may be construed to preempt the exclusive
4 authority of the Video Lottery Facility Location Commission to award video lottery
5 operation licenses in accordance with this subtitle.

6 (3) (i) With respect to a video lottery operation license awarded to a
7 location under paragraph (1)(iv) of this subsection, the holder of the video lottery operation
8 license or any other person with a direct or indirect legal or financial interest in the Ocean
9 Downs racetrack or video lottery facility may not:

10 1. build any type of hotel, motel, or other public lodging
11 accommodation on or within 10 miles of the property owned by the holder of the license on
12 which a video lottery facility is operated; **OR**

13 2. convert an existing facility on or within 10 miles of the
14 property described in item 1 of this subparagraph into any type of hotel, motel, or other
15 public lodging accommodation[; or

16 3. build or operate a conference center or convention center,
17 amusement park, amusement rides, arcade, or miniature golf course on or within 10 miles
18 of the property described in item 1 of this subparagraph].

19 (ii) The prohibitions under subparagraph (i) of this paragraph apply
20 to any subsequent holder of a video lottery operation license awarded under paragraph
21 (1)(iv) of this subsection.

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

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

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

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

29 **(IV) A LOCATION IN CHARLES COUNTY – 1,500 VIDEO LOTTERY**
30 **TERMINALS;**

31 **[(iv)] (V)** a location in Prince George's County – 3,000 video lottery
32 terminals;

33 **[(v)] (VI)** a location in Rocky Gap State Park (Allegany County) –

1 1,500 video lottery terminals; and

2 [(vi)] (VII) a location in Worcester County – 2,500 video lottery
3 terminals.

4 (r) (1) Nothing in this subtitle may be construed to require the Video Lottery
5 Facility Location Commission to award all [six] SEVEN video lottery operation licenses
6 authorized under this subtitle.

7 (t) (1) Except as provided in paragraph (2) of this subsection, the Video
8 Lottery Facility Location Commission shall terminate on January 1, 2015.

9 (2) The Governor may reconstitute the Video Lottery Facility Location
10 Commission, which shall include the appointment of new members based on the criteria
11 established under subsections (b) and (c) of this section:

12 (i) one year prior to the expiration of a video lottery operation
13 license; [or]

14 (ii) following the revocation or surrender of a video lottery operation
15 license; OR

16 (III) FOR THE PURPOSE OF AWARDING A VIDEO LOTTERY
17 FACILITY OPERATION LICENSE IN CHARLES COUNTY.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of Section 1 of
19 this Act authorize the Video Lottery Facility Location Commission to award one video
20 lottery facility operation license in Charles County with the authorization subject to a
21 referendum of the qualified voters of Maryland as provided in Section 3 of this Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That before this Act, which
23 authorizes the expansion of commercial gaming, becomes effective, it shall first be
24 submitted to a referendum of the qualified voters of the State at the general election to be
25 held in November 2020, in accordance with Article XIX, § 1(e) of the Maryland Constitution.
26 The State Board of Elections shall do those things necessary and proper to provide for and
27 hold the referendum required by this section. If a majority of the votes cast on the question
28 are “For the referred law”, the provisions of this Act shall become effective on the 30th day
29 following the official canvass of votes for the referendum, but if a majority of the votes cast
30 on the question are “Against the referred law”, the provisions of this Act are of no effect and
31 null and void.

32 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of
33 Section 3 of this Act and for the sole purpose of providing for the referendum required by
34 Section 3 of this Act, this Act shall take effect July 1, 2020.