

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 535

(Senator Shank, *et al.*)

Budget and Taxation

Ways and Means

Washington County - Amusement Devices - Tip Jars

This bill alters the definition of an amusement device in Washington County to include a game activated by not only coins or tokens, but also by other objects or consideration of value. The bill also alters the definition of gross profits that are generated from tip jars by deducting the cost of a gaming sticker and repeals the \$45 limit on the maximum amount of gross profits that can be retained from each tip jar game.

Fiscal Summary

State Effect: None.

Local Effect: Washington County tip jar revenues and expenditures (*i.e.*, revenues deposited in, and distributed from, the Washington County Gaming Fund) are reduced by approximately \$22,800 annually.

Small Business Effect: Small businesses that operate tip jars in Washington County retain additional profits through a deduction of \$2 in costs for each tip jar packet bought from a wholesaler and sold to the public. Repealing the \$45 limit on gross profits from each tip jar game that specified license holders may retain has no effect on small businesses because the bill codifies current practice.

Analysis

Current Law:

Amusement Devices

In order to operate an amusement device in Washington County, an amusement device operator *license* must be obtained. The annual application fee for the operator license is \$25. Violators are guilty of a misdemeanor and are subject to a maximum fine of \$5,000, imprisonment for a maximum of six months, or both. Also, an amusement device operator *permit* is required in Washington County for each amusement device that is made available for public use. The annual amusement operator permit fee is \$100. Violators are guilty of a misdemeanor and are subject to a maximum fine of \$500, imprisonment for a maximum of six months, or both.

An amusement device is a billiard table or a coin-operated game in the county. A coin-operated game is a game activated by coins or tokens including a video game, an electronic game, a claw machine, a bowling game, a shuffleboard game, a pool table, a pinball machine, a target machine, a baseball machine, and any other similar device (but does not include a bona fide vending machine without amusement features).

Tip Jars

In order to operate a tip jar in Washington County, a tip jar license must be obtained. The following qualifying organizations are eligible for a license: a religious, civic, fraternal, veterans', charitable, or certain sportsmen's organization; a volunteer fire or rescue company; a holder of a Class A beer, wine, and liquor license; or a tavern or restaurant with an alcoholic beverages license. A tip jar license may not be obtained if the applicant owes State, local, or municipal taxes or has been convicted of a felony or misdemeanor involving a violation of a gaming law in the State.

In order to wholesale for-profit tip jar packets in Washington County, a license must be obtained. Except for volunteer fire and rescue companies, a tip jar licensee cannot hold both a tip jar license and tip jar wholesaler's license. Before selling a tip jar packet, a licensed wholesaler must obtain a gaming sticker and affix the sticker to the tip jar packet in the manner required by the county.

Taverns and restaurants with alcoholic beverage licenses and holders of Class A beer, wine, and liquor licenses must deposit the gross profits from each tip jar to the credit of the Washington County Gaming Fund in a financial institution designated by the Washington County Gaming Commission. However, these establishments may retain the lesser of \$45 or 50% of the profits from each tip jar game. A religious, civic, fraternal, veterans', charitable, or sportsmen's organization must deposit 15% of the gross profits

from tip jar operations to the credit of the fund in a financial institution designated by the county gaming commission. Gross profits means the total proceeds from the operation of a tip jar less the amount of money winnings or value of prizes distributed.

Subject to an agreement with the county, the county gaming commission may use money from the fund to reimburse the county for costs associated with regulating tip jar operations in the county. After any reimbursement to the county, the county gaming commission distributes half of the remaining funds to the Washington County Volunteer Fire and Rescue Association and the other half to charitable organizations in the county. The county gaming commission must report annually to the Comptroller on the amount of revenue received and distributed by the commission as a result of the operation of tip jars in the county.

Background: The \$45 limit on gross profits from each tip jar game that taverns and restaurants with alcoholic beverage licenses and holders of Class A beer, wine, and liquor licenses may retain was repealed in 2000 (Chapter 479/HB 1389) with a three-year termination date. Chapter 473 of 2003 (HB 1130) repealed the termination clause in Section 4 of Chapter 479, thereby permanently repealing the \$45 limit. However, Chapter 473 also allowed Section 3 of Chapter 26 of 2002 (HB 11) to take effect July 1, 2005. Section 3 of Chapter 26 has the \$45 limit, so as of July 1, 2005, taverns and restaurants with alcoholic beverage licenses and holders of Class A beer, wine, and liquor licenses may retain the lesser of \$45 or 50% of the gross profits from each tip jar game. However, according to Washington County, those establishments have retained 50% of gross profits from each tip jar game since 2000.

Paper gaming is a game of chance in which prizes are awarded, and the devices used to play the game are constructed of paper. The most common forms of paper gaming are punchboards, instant bingo, and tip jars. A punchboard is a square piece of wood or cardboard with dozens or hundreds of holes punched in it, each filled with a piece of paper with numbers or symbols printed on it. The holes are covered with foil or paper, and players pay for the right to punch one or more holes. If the numbers or symbols on their slips of paper match a winning combination, they receive a prize, either cash or another item. Tip jars dispense instant winning game tickets similar to scratch-off lottery games.

Paper gaming provides two sources of revenues to counties: the sale of paper gaming licenses and tickets to operators, and taxes on paper gaming sales. The State Lottery and Gaming Control Agency advises that paper gaming occurs in at least 15 Maryland counties and is most prevalent in Allegany, Frederick, Garrett, and Washington counties.

Local Fiscal Effect: In fiscal 2012, approximately \$1.8 million was received and distributed by the Washington County Gaming Fund. Though the county is authorized to

deduct from the fund to cover costs associated with regulating tip jar operations, the county advises that it has never made such deductions from the fund.

Washington County advises that it charges \$2 per gaming sticker that must be affixed by wholesalers to each tip jar packet. Generally, the additional \$2 cost is passed on from the wholesaler to those that offer tip jar packets to the public. Revenue accruing to, and distributed from, the Washington County Gaming Fund is reduced by approximately \$22,800 annually as a result of the deduction of \$2 from the gross profits on each tip jar packet sold to the public. Washington County finances, however, are not directly impacted given that the county does not benefit financially from the fund. The county advises that the change in the definition of amusement devices is technical in nature and will not affect county revenues or expenditures associated with the operation of amusement devices in the county.

Repealing the \$45 limit on gross profits from each tip jar game that taverns and restaurants with alcoholic beverage licenses and holders of Class A beer, wine, and liquor licenses may retain has no effect on local revenues or expenditures because the bill codifies current practice. In fiscal 2012, tip jar gross profits from taverns and restaurants with alcoholic beverage licenses and holders of Class A beer, wine, and liquor licenses totaled \$2.3 million, of which \$1.16 million went to the Washington County Gaming Fund and \$1.16 million was retained by the licensees.

Additional Information

Prior Introductions: SB 622 of 2012 passed the Senate and received a hearing in the House Ways and Means Committee, but no further action was taken. Its cross file, HB 461 of 2012, received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: HB 253 (Washington County Delegation) - Ways and Means.

Information Source(s): Washington County, Comptroller's Office, State Lottery and Gaming Control Agency, Department of Legislative Services

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