

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 374

(Senator Currie, *et al.*)Budget and Taxation and Education, Health,
and Environmental Affairs

Ways and Means

State Lottery - Task Force to Study Lottery Revenue

This bill establishes a task force to study State lottery revenues. The bill specifies the task force members, which includes one senator, one delegate, and seven other members, some of whom must be appointed by the Governor. The Governor must designate the chair of the task force, and the State Lottery and Gaming Control Agency (SLGCA) must provide staff support for the task force.

The task force must study (1) data on the causes of the decline in lottery revenue; (2) potential innovations that may improve the lottery experience and restore revenues; (3) lottery agent commissions and bonus incentive programs; and (4) e-commerce, banking, privacy, and security issues related to lottery sales through multiple sales channels and platforms. By January 1, 2015, the task force must report its findings and recommendations to the Governor and the General Assembly. The bill also states legislative intent that SLGCA not implement any new e-commerce related to lottery sales before April 6, 2015.

The bill takes effect July 1, 2014, and terminates June 30, 2015.

Fiscal Summary

State Effect: Revenues are not directly affected in FY 2015 since SLGCA has no plans to sell State lottery tickets online in FY 2015. Staffing requirements and any expense reimbursements for task force members can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: State criminal law prohibits all lotteries except the State Lottery or multi-jurisdictional lotteries authorized under the State Government Article. SLGCA must issue licenses to persons and governmental units that will best serve the public convenience and promote the sale of State lottery tickets or shares.

There are no statutory or regulatory provisions that expressly prohibit the sale of State lottery tickets over the Internet. However, budget language adopted as part of the fiscal 2014 budget prohibits SLGCA from expending funds for the implementation of an iLottery program during the fiscal year until SLGCA reports to the Legislative Policy Committee and budget committees of the General Assembly on a proposed platform and regulatory structure for online lottery sales.

Background:

Lottery Sales and the State Lottery Fund

Each month, after payments to lottery winners and agents and to the State Lottery for operating expenses, the Comptroller must make payments from the State Lottery Fund to:

- the Maryland Stadium Facilities Fund;
- after June 30, 2014, the Baltimore City Public School Construction Financing Fund; and
- the State's general fund.

In fiscal 2013, the State Lottery generated a total of \$1.8 billion in ticket sales. Payments to lottery winners were \$1 billion, while operating costs and payments to agents totaled \$174.5 million. Approximately \$526.0 million was deposited in the general fund after payments were made to the Maryland Stadium Facilities Fund (\$19.3 million).

In general, four types of games are offered by the Maryland State Lottery Agency: daily, jackpot, monitor, and scratch-off games. Daily games consist of Pick 3 or Pick 4, Bonus Match 5, and 5 Card Cash; jackpot games include Multi-Match, Mega Millions, and Powerball; and monitor games include Keno and Racetrax. Daily, jackpot, and monitor games allow players to pick their numbers or use automatic computer-generated plays. Customers receive a ticket and then wait for the drawing to determine if they have won. Scratch-off games are played by scratching a latex covering off a play area to reveal preprinted combinations. If a winning combination is revealed, the customer is an instant winner. Scratch-off games generally have price points between \$1 and \$20.

Wire Act of 1961

In 2009, officials from the New York State Lottery and the Illinois Governor's Office sought clarification from the U.S. Department of Justice (DOJ) as whether their in-state Internet lottery programs would violate the Interstate Wire Act of 1961 (Wire Act) and the Unlawful Internet Gambling Enforcement Act.

In a September 2011 memorandum opinion, DOJ determined that the Wire Act's prohibitions, which had been previously cited to declare online gaming illegal in the United States, only apply to sports-related gambling activities in interstate and foreign commerce. Specifically, DOJ ascertained that interstate transmissions of wire communications that do not relate to a sporting event fall outside the reach of the Wire Act.

iLottery

Selling lottery tickets over the Internet is commonly referred to as iLottery throughout the industry. The iLottery program is a platform in which the player, via the Internet, uses a debit card or bank account to establish an account and determine which games he or she wants to enroll in through a subscription plan or a same-day-purchase. The player can select to participate in one game or multiple games using this platform and will never miss a drawing that he or she chooses to enter.

SLGCA submitted a report in September 2012 that outlined its objective to provide iLottery to allow for the purchase of traditional lottery games through personal computers and mobile devices. Under the proposal, customers would sign up for an account, fund their "digital wallet," and browse and purchase same-day games and subscriptions. The iLottery would also allow account holders to track their transactions and play history, as well as claim winnings online. SLGCA envisions offering draw games (such as Pick 3 and Mega Millions), monitor games (such as Keno and Racetrax), and electronic instant tickets, some of which would mimic traditional scratch-off tickets. The agency indicates that it would employ secure software to verify the age of online lottery players (18 and over) as well as their presence within Maryland and would also adopt practices aimed at assuring that individuals using iLottery features comply with relevant rules and regulations.

iLottery in Other States

Illinois became the first state to offer same-day sales of lottery tickets online in March 2012. Illinois generated \$6.5 million from online lottery sales in fiscal 2013. Illinois online lottery sales have fallen short of projections due to privacy concerns of customers and a website that is considered to be not user-friendly.

Georgia and Minnesota also offer sales of lottery tickets online and Michigan is scheduled to begin iLottery services in fiscal 2015. Nevada, Delaware, and New Jersey offer online gaming via casino websites. Minnesota, New Hampshire, New York, North Dakota, and Virginia allow their residents to purchase a subscription plan to draw games over the Internet (in Maryland, residents must mail in subscription orders).

Small Business Effect: An agent licensed by SLGCA receives a commission of 5.5% of gross receipts from the agent's lottery ticket sales, as enacted by Chapter 1 of the 2012 second special session, increasing to 6% in September 2014. A licensed agent may also receive a cashing fee not to exceed 3% of valid prizes paid for services rendered in cashing winning tickets. Maryland retailers earned \$119.8 million from lottery commissions in fiscal 2013. To the extent that online lottery sales cause a reduction in lottery ticket sales in brick-and-mortar retail sales, small businesses that sell lottery tickets would earn a lower commission and could also see a reduction in general commercial traffic. Prohibiting online lottery sales could benefit small businesses by preserving their lottery commissions and general commercial traffic in their stores. However, since SLGCA does not plan to allow lottery tickets to be sold online in fiscal 2015, prohibiting SLGCA from selling lottery tickets online currently does not affect small businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Lottery and Gaming Control Agency, Illinois Lottery, Michigan Lottery, Department of Legislative Services

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