

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

House Bill 940

(The Speaker)

Ways and Means

Budget and Taxation

Gaming - Regulation of Fantasy Gaming Competitions and Implementation of Sports Wagering - Supplementary Appropriation

This emergency bill establishes and implements sports wagering in the State and provides for regulation of sports wagering and fantasy gaming competitions. The State Lottery and Gaming Control Commission (SLGCC) must generally regulate sports wagering and the conduct of sports wagering to the same extent that it regulates the operation of video lottery terminals (VLTs) and table games in the State. Certain revenues are distributed to the Blueprint for Maryland’s Future Fund (BMFF), the Problem Gambling Fund, and a new Small, Minority-Owned, and Women-Owned Business Sports Wagering Assistance (SMWOBSWA) Fund. Several provisions address the ability of minorities, women, and minority and women-owned businesses to participate in the sports wagering industry.

Fiscal Summary

State Effect: No material effect in FY 2021. Special fund revenues increase by approximately \$31.8 million in FY 2022, mostly due to application fees, and \$15.7 million in FY 2026, due to increasing annual proceeds. Special fund revenues increase further to the extent that registration fees are imposed on fantasy competition operators. Special fund expenditures increase by \$15.8 million in FY 2022, due to \$14.3 million in specified BMFF appropriations plus certain expenditures for the State Lottery and Gaming Control Agency (SLGCA) and from the SMWOBSWA Fund, escalating to \$74.4 million in FY 2026, as discussed below. General fund expenditures increase by \$784,900 in FY 2022 primarily to cover certain SLGCA and consulting costs, increasing to \$4.3 million in FY 2023 to account for annualization of those SLGCA costs as well as \$3.0 million in mandated higher education appropriations, and by \$1.8 million by FY 2026, reflecting certain SLGCA costs only (SLGCA costs reimbursed by applicants are not reflected below). **This bill establishes a mandated appropriation in FY 2022 and 2023.**

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
SF Revenue	\$31,849,200	\$15,099,500	\$15,292,200	\$15,487,700	\$15,686,100
GF Expenditure	\$784,900	\$4,272,400	\$1,547,900	\$1,608,600	\$1,814,600
SF Expenditure	\$15,769,800	\$1,354,300	\$963,700	\$965,200	\$74,396,800
Net Effect	\$15,294,600	\$9,472,800	\$12,780,600	\$12,913,900	(\$60,525,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: It is assumed that sports wagering does not materially affect VLT and table game revenues in the State; thus, local impact grants are not substantially affected. The bill is not anticipated to materially affect the circuit courts.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Sports Wagering Operations

“Sports wagering” is the business of accepting wagers on any sporting event by any system or method of wagering. A “sporting event” is:

- a professional sports or athletic event;
- a collegiate sports or athletic event;
- an Olympic or international sports or athletic event;
- an electronic sports or video game competition in which participants are at least 18 years old;
- a motor race event sanctioned by a motor racing governing entity;
- certain horse races held in or out of the State;
- any portion of a sporting event, including the individual performance statistics of athletes or competitors in a sporting event; or
- an award event or competition of national or international prominence if authorized by SLGCC.

A “sporting event” does not include a high school sports or athletic event or a fantasy competition. Specified individuals may not wager on a sporting event; likewise, a sports wagering licensee may not accept a wager from those individuals, including among others specified in the bill, those younger than age 21, those not physically present in the State, and athletes, coaches, referees, directors, or employees of a sports governing entity or any of its member teams.

A sports wagering facility licensee may accept wagers made by an individual physically present on the licensee’s specified property, including wagers on a self-service kiosk, device, or machine at the specified property. Likewise, a mobile sports wagering licensee may only accept wagers by an individual physically located in the State. To participate in online sports wagering, an individual must register using a website or mobile application approved by SLGCC, or in person at specified facilities. A mobile sports wagering licensee

may conduct and operate online sports wagering or may enter into a contract with one online sports wagering operator to conduct online sports wagering on its behalf; however, an online sports wagering operator may conduct online sports wagering on behalf of more than one mobile sports wagering licensee.

A sports wagering licensee must promptly report to SLGCC any of a number of specified suspicious, corrupt, or illegal activities associated with the integrity of sporting events and sports wagering operations, and a sports wagering licensee must maintain records of its sports wagering operations. SLGCC may share this information with any appropriate law enforcement agency, sports team, sports governing entity, or regulatory agency. SLGCC may deny a license, reprimand or fine a licensee, or suspend or revoke certain licenses for specified violations. SLGCC may impose a per day penalty of up to \$5,000 for each violation.

Sports Wagering Application Review Commission and Sports Wagering Licensing

The bill establishes the Sports Wagering Application Review Commission (SWARC) and specifies the procedure for appointment of members and member qualifications. SWARC must review applications for sports wagering facility and mobile sports wagering licensure. SWARC must award licenses to applicants meeting specified requirements, including a Class A-1 sports wagering facility license to an applicant who is a video lottery operator with more than 1,000 VLTs; the owner of a stadium in Prince George's County used primarily for professional (National Football League (NFL)) football; the owner of an NFL franchise that leases a stadium in Baltimore City; the owner of a major league baseball franchise that leases a stadium in Baltimore City; and the owner of specified professional hockey, basketball, or soccer franchises that lease a stadium in the State. SWARC must award a Class A-2 sports wagering facility license to a qualifying applicant who is a video lottery operator with 1,000 or fewer VLTs and to an applicant that is a specified horse racing licensee (Maryland Jockey Club). No more than 60 mobile sports wagering licenses may be issued in the State.

SWARC must award Class B-1 and B-2 facility licenses to applicants meeting specified requirements. Qualifying applicants with fewer than 25 full-time equivalent employees or less than \$3.0 million in annual gross receipts are awarded B-2 licenses, while qualifying applicants exceeding either of those thresholds are awarded B-1 licenses. SWARC must award a Class B-1 or B-2 license to specified qualifying horse racing, simulcast betting, and commercial bingo entities and to no more than 30 additional qualifying applicants.

Those eligible for or holding a Class A-1 or A-2 license are not eligible for a Class B-1 or B-2 license. Further, a Class B-1 or B-2 license may not be awarded to an applicant whose facility is located within (1) a 15-mile radius of a Class A1-1 or A-2 facility located in Allegany, Cecil, or Worcester counties or (2) a 1.5-mile radius of a Class A-1 or A-2

facility located in any other county, or any other Class B-1 or B-2 facility. On award of a license by SWARC, SLGCC must issue a license to an applicant that meets the requirements for licensure.

An applicant must pay to SLGCC a nonrefundable application fee of \$2.0 million for a Class A-1 license, \$1.0 million for a Class A-2 license, \$250,000 for a Class B-1 license, \$50,000 for a Class B-2 license, and \$500,000 for a mobile sports wagering license. The applicant must reimburse SLGCC for background investigation expenses. The term of a sports wagering license is five years. SLGCC must renew a license if the licensee complies with all statutory and regulatory requirements; the renewal fee equals 1% of the licensee's average annual proceeds from sports wagering revenues for the preceding three years, less proceeds distributed to the State. SLGCC must also adopt regulations that establish an application and renewal fee for the five-year term online sports wagering operator license; however, the application fee may not be less than \$5,000.

SWARC must adopt regulations governing the evaluation of applications for certain types of licensure (Class B-1, Class B-2, and mobile). SLGCC and the Department of Legislative Services (DLS) must staff SWARC. DLS must contract with an independent consultant to assist SWARC in the review and analysis of license applications. The bill expresses the intent of the General Assembly that SWARC review the factors examined and remedial measures implemented by the Natalie M. LaPrade Medical Cannabis Commission with respect to the licensure of medical cannabis growers, processors, and dispensaries and determine whether similar factors and remedial measures may be applied to the sports wagering industry. It also expresses the intent that SWARC evaluate specified studies and conduct its work as expeditiously as possible and in a manner that is in the best interest of Maryland and its citizens.

The bill requires licensing for the following who are involved in sports wagering:

- a person that operates sports wagering;
- a person that operates sports wagering on behalf of a sports wagering licensee, including an online sports wagering operator;
- a person that manages, operates, supplies, provides security for, or provides service, maintenance, or repairs for sports wagering equipment and devices; and
- an individual directly employed in the operation of sports wagering by a sports wagering licensee if the individual does not otherwise hold a valid State gaming license.

Additionally, SLGCC may, by regulation, require a person that contracts with a licensee and the person's employees to be licensed if deemed necessary. From the application and license renewal fees collected for sports wagering, the Comptroller must pay an amount to

SLGCA necessary to reimburse SLGCA for expenses related to the issuance and renewal of sports wagering licenses, 5% collected for Class A-1 and A-2 licenses to the SMWOBSWA Fund, and the remainder to the BMFF.

Mandated Funding and New and Existing Special Funds

The BMFF is altered to include revenue from sports wagering and fantasy gaming. From additional revenues credited to the BMFF under the bill, supplementary appropriations totaling up to \$14.3 million in fiscal 2022 (per specified prioritization), and to the extent possible, must be made for certain programs authorized by Chapter 36 of 2021. The Governor must include in the State budget for fiscal 2023 an appropriation of \$1.5 million each for Bowie State University and Morgan State University to establish centers at each university for the study of data analytics and sports gaming.

In addition to currently authorized uses, expenditures from the Problem Gambling Fund managed by the Maryland Department of Health (MDH) may be used to develop and implement free or reduced-cost problem gambling treatment and prevention programs targeted at individuals with problem gambling issues related to sports wagering, participation in fantasy competitions, and other forms of legal or illegal wagering. Also, a winning wager on a sporting event that is not claimed within 182 days becomes the property of the State and is distributed to the Problem Gambling Fund.

The bill creates the SMWOBSWA Fund to provide grants or loans to small, minority-owned, and women-owned businesses to facilitate participation in the sports wagering industry. The fund receives 5% of the fees collected for each Class A-1 and A-2 sports wagering facility license.

Distribution of Sports Wagering Proceeds

Sports wagering facility licensees and mobile sports wagering licensees retain 85% of proceeds from sports wagering. The remainder of the proceeds must be transferred monthly to the State Lottery Fund and, in turn, distributed on a monthly basis to the BMFF. If a sports wagering licensee returns to successful players more than the amount of money wagered in any month, the licensee may subtract that amount from the proceeds of up to the three following months.

Fantasy Competition

A “fantasy competition operator” is any person that offers services in connection with a fantasy competition to individuals by specified means, but it does not include an individual who participates in the fantasy competition that the individual organizes and who receives no compensation for organizing the competition. The bill requires a fantasy competition

operator to register with SLGCC before offering a fantasy competition or related services in the State. Unless a registration is renewed for a one-year term, the registration expires. SLGCC may impose a registration fee for a fantasy competition operator. The fantasy competition operator retains 85% of its proceeds and must pay the remaining 15% to SLGCC, which must distribute these funds to the BMFF.

Minority Business Enterprise Program/Minority and Women-owned Businesses

The bill expresses the intent of the General Assembly that the sports wagering program is to be implemented in a manner that, to the extent permitted by law, maximizes the ability of minorities, women, and minority and women-owned businesses to participate in the sports wagering industry, including through the ownership of licensed sports wagering entities under the bill. Accordingly, a sports wagering licensee must, to the extent practicable and authorized by the United States Constitution, comply with the State's Minority Business Enterprise (MBE) program until July 1, 2024. Within six months of the issuance of a sports wagering license, the Governor's Office of Small, Minority, and Women Business Affairs (GOSBA) – in consultation with the Office of the Attorney General (OAG) and the licensee – must establish a clear plan for setting reasonable and appropriate MBE participation goals for the procurement of goods and services related to sports wagering, including procurement of construction, equipment, and ongoing services.

To evaluate compliance with any relevant federal and constitutional requirements, the Maryland Department of Transportation (MDOT), as the State's certification agency and in consultation with OAG and GOSBA, must initiate an analysis of specified MBE program requirements under the bill, of specified remedial measures, and of the most recent disparity study. A report on the analysis must be submitted to the Legislative Policy Committee by December 1, 2023.

Further, for Class B-1, B-2, and mobile sports wagering licenses, SWARC – in consultation with MDOT, GOSBA, and OAG – must (1) evaluate a study of the sports wagering industry and market to determine whether there is a compelling interest to implement remedial measures, besides the application of the MBE program or a similar program, to assist minorities and women in the sports wagering industry; (2) evaluate race-neutral programs or other methods to address the needs of minorities, women, and minority and women-owned businesses seeking to participate in the sports wagering industry, including through ownership of licensed sports wagering entities; (3) consider whether an applicant for a Class B-1 or B-2 license intends to conduct sports wagering at a facility located in an opportunity zone or an enterprise zone; and (4) consider allowing early access to the mobile sports wagering market to entities with a meaningful partnership with minorities, women, and minority and women-owned businesses. Emergency regulations must be adopted to implement remedial measures, if necessary and to the extent permitted by State and federal law. SWARC must actively seek to achieve racial, ethnic, and gender diversity when

awarding licenses and encourage MBE and small, minority, and women-owned businesses to apply for sports wagering licenses.

An applicant for a sports wagering license that is seeking investors must make serious and good-faith efforts to solicit and interview a reasonable number of minority and women investors and must submit related documentation as part of the application. An applicant that is awarded a license must sign a memorandum of understanding with SWARC that requires the licensee to again make good-faith efforts to interview minority and women investors in any future effort to raise venture capital or attract investors.

Additional Provisions

Except as otherwise provided under the bill, sports wagering licensees and facilities must meet certain requirements relating to data security, advertising, and local zoning laws.

In addition to annual reports, SLGCC must, by December 1, 2025, report on license holder diversity and market saturation regarding Class B-1, B-2, and mobile sports wagering operations.

Certain prohibitions (described below) regarding development of lodging facilities within 10 miles of the Worcester County VLT facility, either by building new lodging facilities or converting existing property, are repealed.

The bill specifies that if a portion of the bill is found invalid by a court of competent jurisdiction, aspects of the bill that do not depend on that portion are in effect.

Current Law: Wagering on a contest, event, game, or match between individuals or teams sponsored by a professional league or association or hosted by a college or university is illegal in Maryland. However, Chapter 492 of 2020 established that, subject to voter referendum, the General Assembly may authorize, by law, that SLGCC may issue a license to offer sports wagering and event wagering in the State. Sports and event wagering legislation must include the criteria for eligible applications for a licensee and specifications of the permissible forms, means of conduct, and premises of wagering. Chapter 492 also states the General Assembly's intent that, if the voter referendum is approved, State revenues generated by sports and event wagering be used primarily for public education. The voters approved the referendum during the November 2020 election.

Chapter 346 of 2012 exempts a specified "fantasy competition" from prohibitions against betting, wagering, and gambling in State law. The law defines "fantasy competition" as any online fantasy or simulated game or contest such as fantasy sports in which (1) participants own, manage, or coach imaginary teams; (2) all prizes and awards offered to winning participants are established and made known to participants in advance of the

game or contest; and (3) the winning outcome of the game or contest reflects the relative skill of the participants and is determined by statistics generated by actual individuals. A kiosk or machine that offers fantasy competition to the public in a place of business physically located in the State is prohibited.

Chapter 338 of 2019 authorizes an organization conducting an “eSports competition” to offer prize money or merchandise to winning participants in the eSports competition. An eSports competition is a competition involving video games, including first-person shooters, real-time strategy games, and multiplayer online battle arenas in which players compete against each other and the players’ skills generally determine the results.

The VLT licensee in Worcester County or any other person with a direct or indirect legal or financial interest in the Ocean Downs racetrack or video lottery facility may not:

- build any type of hotel, motel, or other public lodging accommodation on or within 10 miles of the property owned by the holder of the license on which the VLT facility is operated;
- convert an existing facility on or within 10 miles of the above described property into any type of hotel, motel, or other public lodging accommodation; or
- build or operate a conference center or convention center, amusement park, amusement rides, arcade, or miniature golf course on or within 10 miles of the above described property.

For an overview of sports betting laws and related revenues in the United States, please see the **Appendix – Sports Betting**.

Minority Business Enterprise Program/Minority and Women-owned Businesses

The State’s MBE program requires that a statewide goal for MBE contract participation be established biennially through the regulatory process under the Administrative Procedure Act. The current goal is 29%. Under Chapter 492 of 2020, MDOT and SLGCC must contract with an appropriate expert to review the 2017 MBE disparity study (per Chapter 340 of 2017) to evaluate, by October 1, 2020, whether there is a compelling interest to implement remedial measures to assist minorities and women in the sports and event wagering industry and market.

Blueprint for Maryland’s Future Fund

The BMFF was created by Chapter 771 of 2019 as the successor to the Commission on Innovation and Excellence in Education Fund. The purpose of the fund is to assist in providing adequate funding for early childhood education and primary and secondary education to provide a world-class education to students. The fund consists of (1) specified

allocations of personal income tax and sales tax revenues; (2) money appropriated in the budget for the fund; and (3) any other money from other sources accepted for the benefit of the fund.

State Fiscal Effect: For purposes of this analysis, DLS assumes the award and issuance of 47 sports wagering facility licenses, specifically:

- Class A-1 – 6;
- Class A-2 – 4;
- Class B-1 – 10; and
- Class B-2 – 27.

In addition, based upon sports betting programs in New Jersey, Tennessee, and Virginia, the analysis assumes that approximately 12 of the 60 authorized mobile sports wagering licenses are awarded and issued. The analysis also assumes that, commensurate with the number of licensees described above, all application fees are received in fiscal 2022 and that renewal fees as applicable are received beginning in fiscal 2027 (beyond the timeframe covered in this fiscal and policy note). While the actual application and renewal fees that must be paid by an online sports wagering operator will depend on regulations not yet established, for purposes of this analysis, they are assumed to be the minimum of \$5,000 set by the bill.

Based on sports wagering revenues in surrounding states, DLS estimates that revenues from sports wagering could total 5% of overall gaming revenues in the State on an annual basis, and fantasy competition revenues may amount to about 10% of sports wagering revenues; thus, DLS assumes revenues from sports wagering and fantasy competitions could total 5.5% of overall gaming revenues from VLT facilities in the State. The estimates assume that Class A-1 and Class A-2 operations, and about 40% of Class B-1 operations, begin roughly midway through fiscal 2022. The remaining 60% of Class B-1 operations and the vast majority of Class B-2 operations are assumed to begin in fiscal 2023.

From application and license fee revenues, the Comptroller's Office must distribute (1) funds to SLGCA to cover expenses related to the issuance and renewal of sports wagering licenses; (2) 5% of Class A-1 and Class A-2 fees to the SMWOBSWA Fund; and (3) the remainder of all fee revenues to the BMFF. From sports wagering and fantasy competition proceeds, 15% is distributed to the BMFF. Thus, after accounting for SLGCA expenses discussed below and \$800,000 distributed to SMWOBSWA in fiscal 2022, BMFF revenues increase by approximately \$26.1 million in fiscal 2022, largely as a result of application fees, and by \$15.7 million in fiscal 2026, from the State share of sports wagering proceeds. BMFF revenues increase further to the extent that registration fees are imposed on fantasy competition operators in any year.

BMFF expenditures increase by \$14.3 million in fiscal 2022 to cover specified items under Chapter 36 of 2021. Based upon current BMFF revenue projections, additional revenues from this bill will not need to be expended from the BMFF until fiscal 2026. It is, therefore, assumed that, after accounting for the \$14.3 million expenditure, the cumulative revenues of \$73.4 million distributed under the bill to the BMFF from fiscal 2022 through 2026 are expended in fiscal 2026. **Exhibit 1** shows the distribution of revenues under the bill, including the portion of State revenues distributed to the BMFF and to SLGCA to cover the agency’s costs. The bill’s fine and penalty provisions do not materially affect general fund revenues. Revenues for the Problem Gambling Fund are also not materially affected.

Exhibit 1
Revenues under the Bill
Fiscal 2022-2026
(\$ in Millions)

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
Sports Wagering/Fantasy Competitions					
Licensee Share	\$33.7	\$85.6	\$86.7	\$87.8	\$88.9
State Share	5.9	15.1	15.3	15.5	15.7
Subtotal	\$39.6	\$100.7	\$101.9	\$103.3	\$104.6
Licensing Fees	\$25.9	\$0.0	\$0.0	\$0.0	\$0.0
Total State Revenues	\$31.8	\$15.1	\$15.3	\$15.5	\$15.7
Blueprint for Maryland’s Future Fund	\$26.1	\$15.1	\$15.3	\$15.5	\$15.7
SMWOBSWA Fund	0.8	0.0	0.0	0.0	0.0
State Lottery and Gaming Control Agency	4.9	0.0	0.0	0.0	0.0

SMWOBSWA: Small, Minority-Owned, and Women-Owned Business Sports Wagering Assistance

Notes: Numbers may not sum to total due to rounding. Although license application fee revenues distributed to the State Lottery and Gaming Control Agency (SLGCA) shown above are assumed to be entirely realized in fiscal 2022, the estimated \$4.9 million is assumed to cover a portion of SLGCA costs under the bill for the full five-year period shown and disbursed accordingly. A portion of the licensee share of revenues shown will be used to reimburse SLGCA for costs associated with background investigations; this amount is not repeated under State revenues.

Source: Department of Legislative Services

Expenditures for SLGCA increase by \$2.7 million in fiscal 2022. It is assumed that 16 employees are needed as of July 1, 2021, to develop regulations, responsible gaming initiatives, and financial reporting requirements, and to begin background checks. Sports

wagering is assumed to commence in fiscal 2022 at a total of 10 Class A-1 and A-2 facilities, at roughly 4 of the B-1 facilities, and for a small number of B-2 facilities. Accordingly, SLGCA also requires an estimated 14 compliance representatives and supervisors for various facilities to oversee sports wagering, while existing SLGCA compliance officers at the VLT facilities can provide oversight at those locations. This estimate, therefore, reflects the cost of hiring a total of 30 additional SLGCA staff in fiscal 2022 to provide oversight for sports wagering and fantasy competitions. SLGCA also incurs an estimated cost of \$750,000 in fiscal 2022 for infrastructure to monitor and regulate sports wagering operations, plus \$50,000 annually thereafter. Estimated costs include salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	30.0
Salaries and Fringe Benefits	\$1,624,535
Information Technology Infrastructure	750,000
Operating Expenses	<u>299,843</u>
Total FY 2022 SLGCA Expenditures	\$2,674,378

Costs associated with issuance and renewal of sports wagering licenses are covered by license application and renewal fees and are reflected as special fund expenditures for SLGCA (approximately 40% of costs in fiscal 2022); costs associated with background investigations are reimbursed by applicants and are not reflected elsewhere in this fiscal and policy note (approximately 40% of costs in fiscal 2022); and other SLGCA costs (monitoring, regulations, *etc.*) under the bill are assumed to be covered by general funds (approximately 20% of costs in fiscal 2022).

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses, as well as an additional 16 SLGCA positions at the beginning of fiscal 2023 (for a total of 46 positions under the bill) to coincide with the additional licensee operations. The general fund share of these costs increases to 40% in fiscal 2023 and 50% or more in subsequent years covered by this fiscal and policy note (while the special fund share is assumed to be approximately 30% beginning in fiscal 2023, and the reimbursed portion drops to 20% or less by fiscal 2024). During fiscal 2025 and 2026, general fund costs for SLGCC include approximately \$75,000 in total for a consultant to assist in generating the required report on license holder diversity and market saturation regarding Class B-1, B-2, and mobile sports wagering operations.

General fund expenditures for higher education increase by \$3.0 million in fiscal 2023 to provide required funding to Bowie State University and Morgan State University.

Certain other impacts of implementation can be handled with existing resources. Specifically, MDH can develop and implement free or reduced-cost problem gambling treatment and prevention programs targeted at individuals with problem gambling issues

related to sports wagering with existing resources from the Problem Gambling Fund. Likewise, reimbursements to SWARC members for travel and related expenses are assumed to be minimal and can be handled with existing resources. SLGCC can conduct certain required hearings using existing resources. It is assumed that the Department of Commerce can distribute grant and loan funds via the SMWOBSWA Fund using existing staffing for distribution of Small, Minority, and Women-Owned Businesses Account funds.

However, DLS must expend approximately \$250,000 in general funds in fiscal 2022 to contract with an independent consultant to assist SWARC in the review and analysis of license applications. In addition, MDOT must expend approximately \$35,000 in special funds (from the Transportation Trust Fund) in fiscal 2024 to complete the required analysis of the MBE program and of the implications of the disparity study.

Small Business Effect: Small businesses that are fantasy competition operators may be impacted by a new fee and tax on proceeds. Some small businesses, including minority and women-owned businesses, may benefit from the advent of legalized sports wagering, including the SMWOBSWA Fund.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): State Board of Contract Appeals; Maryland Department of Health; Maryland Department of Labor; Maryland Department of Transportation; Maryland State Lottery and Gaming Control Agency; Comptroller's Office; Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2021
rh/jrb Third Reader - March 24, 2021
Revised - Amendment(s) - March 24, 2021
Enrolled - May 24, 2021
Revised - Amendment(s) - May 24, 2021
Revised - Other - May 24, 2021

Analysis by: Scott P. Gates

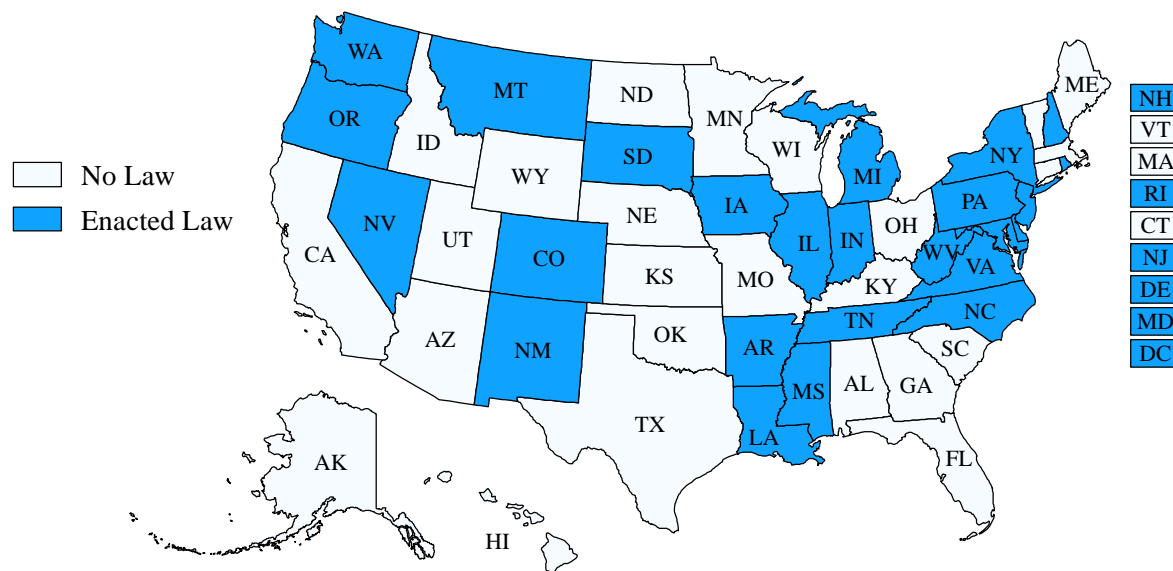
Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix – Sports Betting

The federal Professional Amateur Sports Protection Act of 1992 (PASPA) made betting on sports in most states illegal under federal law. New Jersey challenged the PASPA in the U.S. Supreme Court, arguing in *Murphy v. National Collegiate Athletic Association* that the federal ban violated the U.S. Constitution by commandeering the states into enforcing federal law. In May 2018, the U.S. Supreme Court ruled in *Murphy* that the PASPA was unconstitutional, leaving states free to authorize sports betting.

On June 5, 2018, less than one month after the PASPA was struck down by the U.S. Supreme Court, Delaware became the first state outside of Nevada to offer single-game sports betting. New Jersey launched single-game sports betting just nine days later. Since then, there has been a rush of legislative activity in states hoping to capture a new source of gaming revenue. **Exhibit 1** shows the states that have enacted sports betting laws as of November 2020.

Exhibit 1
States with Enacted Sports Betting Laws



Note: Implementation legislation must follow before sports betting can begin in Louisiana, Maryland, and South Dakota.

Source: Department of Legislative Services

Sports betting operations are now underway in 18 of those states and the District of Columbia. **Exhibit 2** shows how the states recent to sports betting have structured their operations and the revenues generated since going live. In the coming year, North Carolina, Virginia, and Washington are expected to launch sports betting operations. Connecticut, Louisiana, and South Dakota are positioned to move forward once lawmakers and regulators make necessary implementation decisions.

Exhibit 2
Post-PASPA Sports Betting Active States and Revenues

<u>State</u>	<u>First Bet Placed</u>	<u>Tax Rate</u>	<u>Authorized Retail Betting Locations</u>	<u>Mobile Betting</u>	<u>Sportsbook Data (Launch Date through September 2020)¹</u>
Delaware	6/5/18	59.8% – 60.2% (includes % for race purses)	Racetracks	No	Handle ² – \$220,097,070 Revenue ³ – \$24,939,774 State Share – \$12,469,909
New Jersey	6/14/18	8.5% retail /13% mobile	Casinos and racetracks	Yes	Handle – \$9,123,193,004 Revenue – \$616,629,274 State Share – \$74,883,688
Mississippi	8/1/18	12% (includes a 4% local share)	Casinos	No	Handle – \$719,154,291 Revenue – \$78,728,324 State Share – \$9,454,867
West Virginia	8/30/18	10%	Racetracks and the private club at Greenbriar	Yes	Handle – \$506,021,984 Revenue – \$38,750,170 State Share – \$3,891,943
New Mexico⁴	10/16/18	Not available	Tribal casinos	No	Not available
Pennsylvania	11/17/18	36% (includes a 2% local share)	Casinos and racetracks	Yes	Handle – \$3,521,543,206 Revenue – \$169,948,997 State Share – \$61,226,621
Rhode Island	11/26/18	51%	Casinos	Yes	Handle – \$388,992,888 Revenue – \$29,985,566 State Share – \$16,180,118
Arkansas	7/1/19	13% / revenues above \$150 million @ 20%	Casinos and racetracks	No	Handle – \$24,894,268 Revenue – \$2,671,412 State Share – \$383,075
New York	7/16/19	10%	Casinos	No	Handle – Not available Revenue – \$11,050,241 State Share – \$1,122,983
Iowa	8/15/19	6.75%	Casinos and racetracks	Yes	Handle – \$513,571,354 Revenue – \$36,132,754 State Share – \$2,488,765
Oregon	8/27/19	Not available	Tribal casinos	Yes	Handle – \$182,036,055 Revenue – \$13,078,462 State Share – Not available

<u>State</u>	<u>First Bet Placed</u>	<u>Tax Rate</u>	<u>Authorized Retail Betting Locations</u>	<u>Mobile Betting</u>	<u>Sportsbook Data (Launch Date through September 2020)¹</u>
Indiana	9/1/19	9.5%	Casinos, racetracks, and OTBs	Yes	Handle – \$1,409,584,535 Revenue – \$109,274,383 State Share – \$10,381,065
New Hampshire	12/30/19	Per agreement with operator	Voter approved locations and lottery retailers	Yes	Handle – \$147,725,984 Revenue – \$10,170,385 State Share – \$4,557,372
Illinois	3/9/20	15%	Casinos, racetracks, OTBs, sports facilities, and lottery retailers	Yes	Handle – \$201,870,011 Revenue – \$11,298,024 State Share – \$2,491,376
Michigan	3/11/20	8.4%	Casinos	Yes	Handle – \$49,842,141 Revenue – \$6,459,007 State Share – \$542,556
Montana	3/12/20	Per agreement with operator	Lottery retailers w/alcohol license	No	Not available
Colorado	5/1/20	10%	Casinos	Yes	Handle – \$459,244,482 Revenue – \$7,806,098 State Share – \$812,855
Washington, D.C.	5/8/20	10%	Licensed businesses, lottery retailers, and sports facilities	Yes	Handle – \$27,694,384 Revenue – \$3,688,479 State Share – \$273,242
Tennessee	11/1/20	20%	Online only	Yes	Not available

¹ Sportsbook data for September is not currently available in Illinois.

² Handle is the total amount of all wagers.

³ Revenue is gross gaming revenue (handle minus total win) minus various payouts (*e.g.*, promotional credits, excise taxes, vendor fees) to arrive at “taxable” revenue.

⁴ In New Mexico, five of that state’s nine tribal casinos offer sports betting under the existing tribal gaming compact, although the activity remains unsanctioned under state law.

Source: Department of Legislative Services

In Maryland, legalized sports betting is considered an expansion of commercial gaming. Chapter 5 of the 2007 special session amended the Maryland Constitution so that after November 15, 2008, the General Assembly may only authorize additional forms or an expansion of commercial gaming if approved through a referendum by a majority of the voters in a general election. Legislation authorizing a referendum on sports betting was introduced in both houses during the 2018 and 2019 sessions, but these bills failed to pass. Chapter 492 of 2020 authorized sports and events betting generally, subject to voter referendum, and Maryland voters approved the question in the November 2020 general election. However, before sports betting operations can begin, the General Assembly must follow with implementation legislation, including the criteria for eligible applications for

a licensee and specifications of the permissible forms, means of conduct, and premises of wagering.