

# Maryland Lottery and Gaming Control Agency

Larry Hogan, Governor • Gordon Medenica, Director



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The Honorable Anne R. Kaiser  
Chair, Ways and Means Committee  
Room 130, House Office Building  
Annapolis, MD 21401-1991

**Re: Letter of Information – House Bill 940 - Gaming - Regulation of Fantasy Gaming Competitions and Implementation of Sports Wagering**

Dear Chair Kaiser and Members of the Ways and Means Committee:

The Maryland Lottery and Gaming Control Agency (“MLGCA” or “Agency”) submits this letter of information to the House Ways and Means Committee (“Committee”) regarding House Bill 940, which creates the enabling law for the implementation of sports wagering in the State of Maryland. Below are our suggestions for some sections in HB940 that the Agency wants to bring to the Committee’s attention. In addition, I have included an Appendix PowerPoint Presentation to update our overview of sports betting trends with additional estimates of potential revenues for entities as defined in HB940.

**Scope/Applicability.**

This proposed legislation would create a new subtitle within the State Gaming Law (State Government Article (SG) §9-1A-01, et seq.). Section 9-1A-02 of the Gaming Law was enacted to address the scope of the Gaming Law, and has been helpfully applied in various contexts to explain the working relationship between the Agency and the Maryland Lottery and Gaming Control Commission (“MLGCC” or “Commission”); without this section, there is no clear legal reference to explain that the Agency does the actual regulatory work of the Commission. Because HB940 uses the same Agency-Commission structure, the Agency suggests adapting SG §9-1A-02(a) and (b) for inclusion in HB940.

**Definitions.**

For reasons explained in DLS’ fiscal and policy note for Senate Bill 79 (Ch. 515, 2020), federal law and regulation requires specific definitions and language in State law to authorize the Commission to receive and review certain federal reports of suspected criminal activity. The Agency suggests adding these two provisions to the definitions in §§ 9-1D-01 and 9-1E-01:

**SG §9-1D-01**

(xx) “FANTASY COMPETITION OPERATOR” MEANS ANY PERSON THAT OFFERS SERVICES IN CONNECTION WITH FANTASY COMPETITIONS TO INDIVIDUALS BY MEANS OF:

....

**(3) “FANTASY COMPETITION OPERATOR” INCLUDES A GAMING ESTABLISHMENT FOR THE PURPOSES OF THE FEDERAL BANK SECRECY ACT OF 1970 AND ITS RELATED REGULATIONS HAVING AT LEAST 1 MILLION DOLLARS IN ANNUAL GROSS REVENUE.**

**SG §9-1E-01**

**(xx) "GAMING ESTABLISHMENT" MEANS A GAMING ESTABLISHMENT FOR THE PURPOSES OF THE FEDERAL BANK SECRECY ACT OF 1970 AND ITS RELATED REGULATIONS HAVING AT LEAST 1 MILLION DOLLARS IN ANNUAL GROSS REVENUE, AND INCLUDES A SPORTS WAGERING LICENSEE.**

**Licensing.**

As with the Gaming Law, it appears that the intent of HB940 is to ensure that all sports wagering licenses will ultimately be "issued" by the MLGCC. Even for non-sports wagering licenses (e.g., service providers, employees), MLGCC accepts license applications and issues licenses. However, HB940 creates a new entity, the Sports Wagering Application Review Commission ("SWARC"), to provide a separate layer of review of applications. For example, the SWARC would accept a license application, and after finding an applicant's proposal acceptable, the SWARC would "award" the applicable sports wagering license. The MLGCC then would conduct a background investigation, and if it finds the applicant qualified, MLGCC may "issue" a license to a qualified applicant. In §9-1E-06(a), however, there are several references to the SWARC as the entity that may "issue" a sports wagering license. Because of this conflicting terminology, the Agency suggests clarifying the licensing responsibilities of the SWARC and MLGCC in the licensing review process.

**Coterminous Licensing.**

The MLGCC has already issued an initial fifteen (15) year license to its video lottery operator licensees and, if qualified, would issue a ten (10) year renewal license to these licensees. Similarly, the Maryland Racing Commission has issued licenses annually to its horse racing licensees. The Agency suggests including the following in §9-1E-05:

- "The term of a Class A sports wagering license shall be incorporated into the remaining term of the applicant's video lottery operator license or horse racing license."
- "A Class A sports wagering licensee shall surrender its sports wagering license to the Commission if it no longer holds a valid video lottery operator license or horse racing license."
- "The term of a sports wagering license shall be for five (5) years and may be merged into a license issued under Title 9, Subtitle 1A or under Title 11, Subtitle 5 of the Business Regulation Article."

**The SWARC and MLGCC Awarding and Licensing Process.**

The Agency has identified several steps that must occur before the SWARC may begin accepting and reviewing sports wagering license applications. We will review the steps with the bill sponsor to ensure the Agency has a clear understanding of the intent of this process. However, the Agency believes that this awarding and licensing process will add at least an additional 12 months to the time needed to implement sports wagering from the date the bill is enacted, which will ultimately delay the time until the first wagers are accepted.

To at least partially minimize this delay, the Agency suggests that the SWARC should award Class A casino licenses immediately, and award horse racing licenses after the MLGCC conducts the same level of background investigation it performs for casino license applicants. Since the casinos have already gone through this process, the Agency contends that they could be awarded a license very quickly, and then issued a license as soon as the MLGCC establishes necessary regulations and grants approval of the licensee's sports wagering operations plan. Although the horse racetracks would undergo the same level of

background investigation as the casino license applicants, the MLGCC could perform these investigations relatively quickly due to the limited number of horse racing locations.

**License Limitation.**

The Agency submits that limiting the number of internet wagering licenses to ten (10) may cause some issues. Under HB940, there are nine (9) Class A Licenses available, and these presumably would go to the established casino gaming and horse racing operations in the state. Therefore, it would seem likely that these licensees would be primary candidates for internet sports wagering licenses. This then would only leave one internet sports wagering license available for the five (5) Class B licensees. Since most betting will take place through internet devices, there is very little market share left for small - perhaps minority-owned - retail operators to compete for. Given this fact, the Agency contends that Class B licensees could very well struggle to be profitable.

**Financial Concerns.**

Under HB940, there is an annual license renewal fee of 1% of the average annual gross sports wagering revenue. It is not clear if the intent of this provision means 1% of the annual amount of wagers accepted by the licensee, or 1% of funds after winnings are paid; therefore, the term should be defined. HB940 must clearly distinguish between total bets placed, known as "handle," and Gross Gaming Revenue ("GGR"), which is the amount remaining after winnings are paid. Because sports wagering typically involves small margins, with 92% to 95% of wagers being returned to players, if the 1% is calculated based on GGR, then the annual license renewal fee would be de minimis. Conversely, if the intent of the bill is to charge 1% of "handle," then the amount could be substantial, perhaps higher than the tax rate itself.

SG §9-1E-12 (B) states that "all proceeds" from sports wagering shall be transferred daily to the State Lottery Fund. The Agency submits that the amount transferred should only be the tax due from the licensee, not the licensee's share of the revenue. Additionally, the Agency contends that daily transfers are not typical for sports wagering operations. Weekly transfers are more common and are preferred.

Thank you for your consideration of this letter of information to HB940. If you should have any questions or need more information about this subject, please do not hesitate to contact James B. Butler, MLGCA's Managing Director, Organizational Compliance, at (410) 230-8781 or [jbutler@maryland.gov](mailto:jbutler@maryland.gov).

Sincerely,  
  
Gordon Medenica  
Director

cc: Speaker Adrienne A. Jones  
All Committee Members



# **Sports Betting Trends & Insights**

# Surrounding Jurisdictions: Casino & Gaming Trends

## Pennsylvania

- 13 casinos operating
- 5 additional casinos planned
- Online lottery games
- Online casino games
- Sports betting at casinos and online
- Regulated daily fantasy sports
- Truck-stop gaming terminals

## West Virginia

- 5 casinos operating
- Online casino games
- Sports betting at casinos and online
- Gaming terminals at bars and taverns



## Delaware

- 3 casinos operating
- Online casino games
- Sports betting at casinos, but not online
- Sports parlay betting at lottery retailers
- Regulated daily fantasy sports

## Washington, D.C.

- Lottery operates sports betting mobile app
- At least 4 land-based sports betting locations permitted, 1 currently operating, another planning to open during 2021

## Virginia

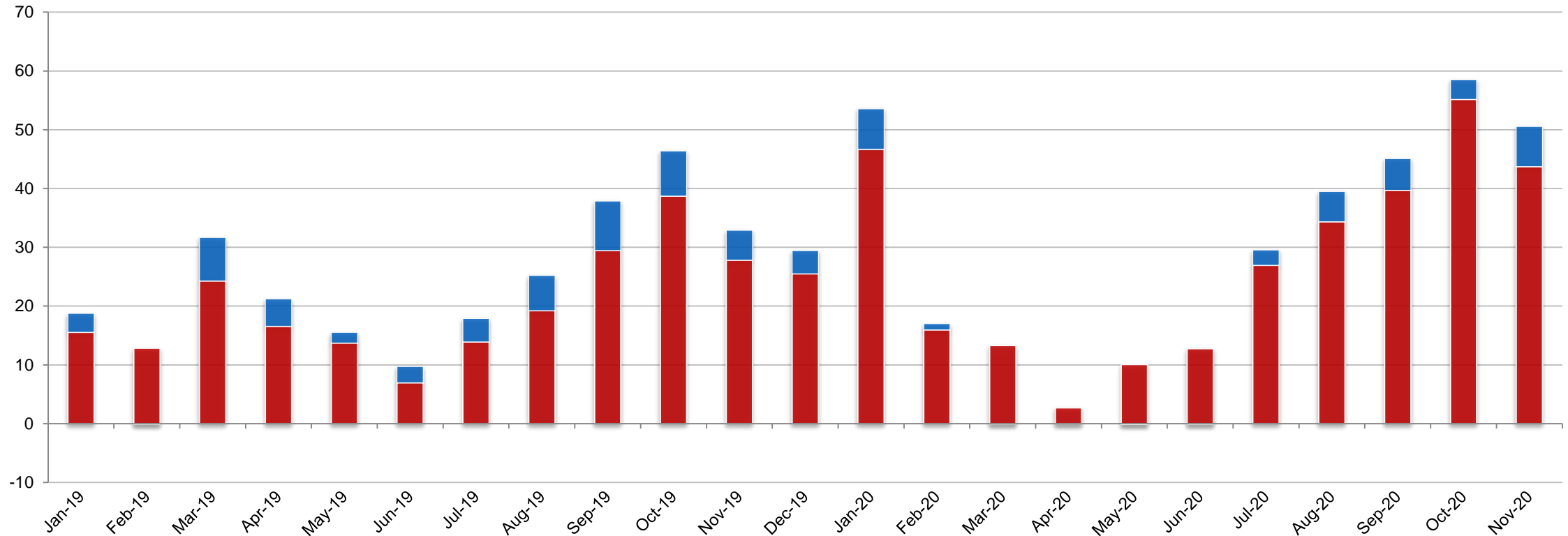
- 5 casino locations chosen, host cities to hold referendums
- Online casino games to be permitted only at casino locations
- Sports betting launch in early February, online only, no land-based locations
- Online lottery games
- Regulated daily fantasy sports
- Historical horse racing terminals

# Sports Betting Gross Revenue: Online vs. Land-Based

New Jersey Sports Betting Gross Revenue by Channel

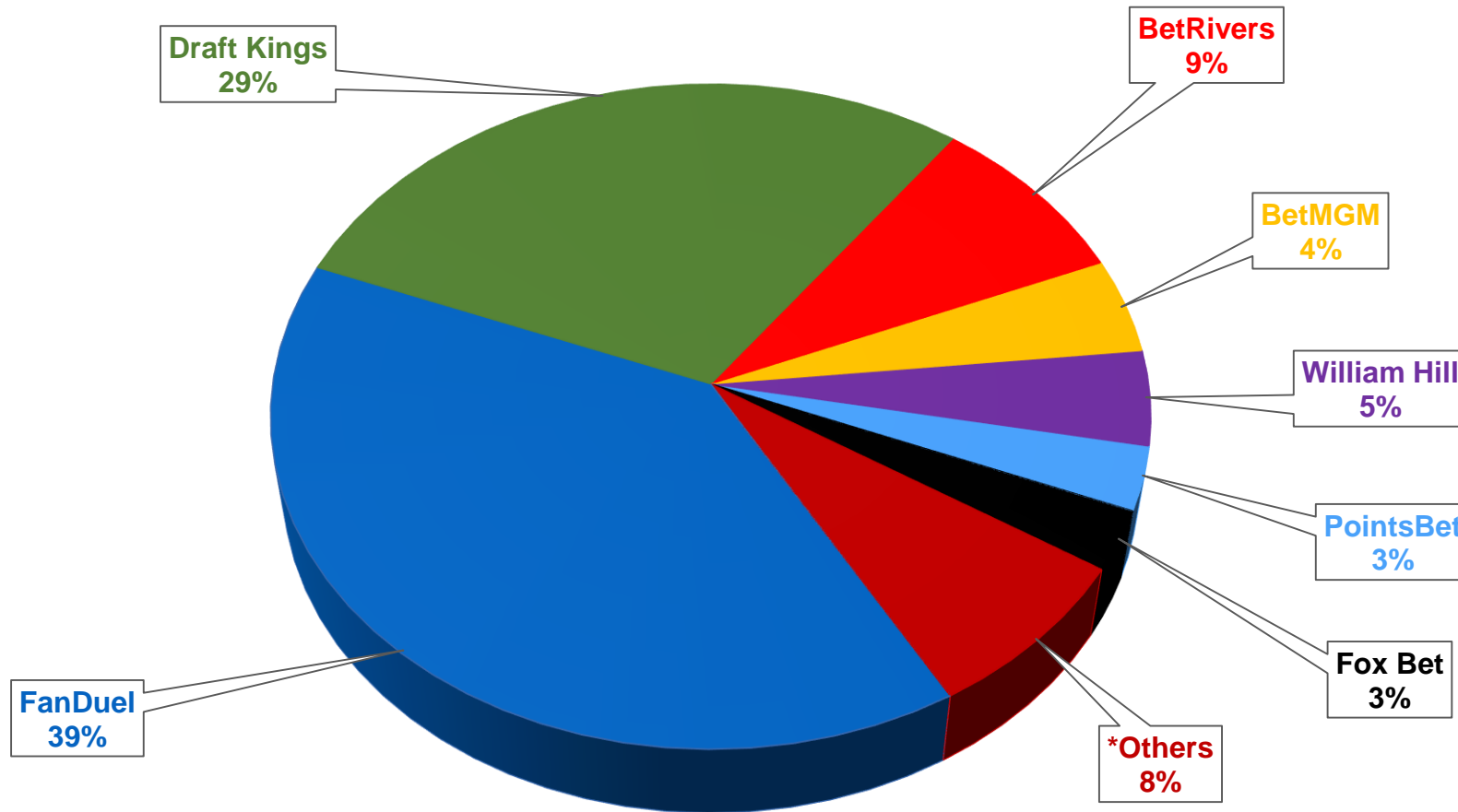
GGR in millions

■ Online ■ Land-Based



Online accounted for 86.4% of gross sports betting revenue in New Jersey from January 2019 through November 2020.

# Online Sports Betting Providers: Gross Revenue Market Share

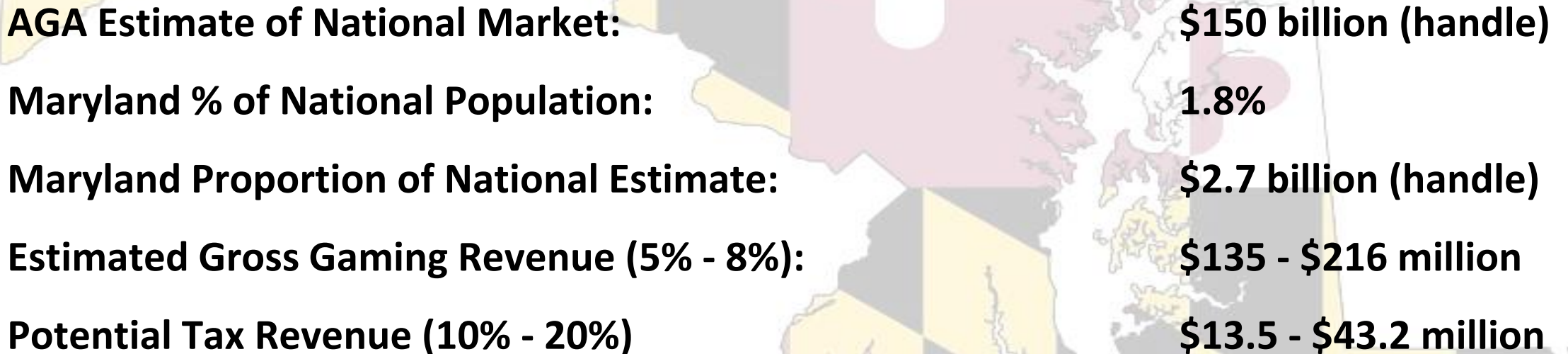


\*Others includes revenue from 13 additional providers:

- Caesars
- Boyd
- Bet365
- Kindred/Unibet
- Golden Nugget
- Delaware North
- Penn National/Barstool
- Churchill Downs/BetAmerica
- theScore
- Seminole/Hard Rock
- Wynn
- Parx
- Bally's



# Estimated Size of Maryland's Illegal Sports Betting Market

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- **AGA Estimate of National Market:** **\$150 billion (handle)**
  - **Maryland % of National Population:** **1.8%**
  - **Maryland Proportion of National Estimate:** **\$2.7 billion (handle)**
  - **Estimated Gross Gaming Revenue (5% - 8%):** **\$135 - \$216 million**
  - **Potential Tax Revenue (10% - 20%)** **\$13.5 - \$43.2 million**



# Estimated Sports Betting Market Share Split: Online vs. Bricks & Mortar Retail

- **Estimated Gross Gaming Revenue Potential (from earlier page):** \$135 - \$216 million
- **Market Share Split (assuming similar to other states' experience):**
  - **Online (85%)** \$115 - \$184 million
  - **Bricks & Mortar Retail (15%)** \$20 - \$32 million
- **Per Retailer for 14 Bricks & Mortar facilities\*:**
  - **If revenue divides equally (unlikely):** \$1.4 - \$2.3 million
  - **If casinos average 3 times the volume of others:**
    - **Per casino** \$2.3 - \$3.7 million
    - **Per horse track/Class B** \$0.77 - \$1.23 million

\* Assumes sports facilities' (2 NFL, 1 MLB) revenue is subsumed in casino figures.

# Sports Betting Characteristics

## The sports betting market:

- Is highly competitive, low margin, and extremely volatile
- Requires vast expertise in systems, back-end operations, odds-setting, marketing and more
- Demands high integrity and access to significant capital

## Remaining competitive with the illegal sports betting market requires:

- Low tax rate
- Competitive pricing (e.g. odds)
- Marketing investment