

Maryland Lottery and Gaming Control Commission

Wes Moore, Governor



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MARYLAND LOTTERY AND GAMING CONTROL COMMISSION MARCH MINUTES

DATE: March 28, 2024

TIME: 10:00 a.m.

PLACE: Virtual Only

PRESENT: Chair E. Randolph Marriner
Vice Chair George L. Doetsch, Jr.
Commissioner Diane M. Croghan
Commissioner Harold E. Hodges
Commissioner James J. Stakem
Commissioner Jerry E. Williams

John Martin, Director
James Nielsen, Deputy Director, Chief Operating Officer
James Butler, Assistant Deputy Director, Chief of Staff
Michael Eaton, Managing Director, Gaming
John Mooney, Managing Director, Regulatory Oversight
Solomon Ramsey, Managing Director, Sales and Marketing
Paula Yocum, Managing Director, Chief Financial Officer
Seth Elkin, Managing Director, Communications
Jennifer Tosky, Deputy Counsel, Attorney General's Office
Kathy Lingo, Executive Assistant

OTHERS: Representative from Hollywood Casino
Representative from Ocean Downs Casino
Representative from Live! Casino
Representative from Rocky Gap Casino Resort
Representative from Horseshoe Casino Baltimore
Representative from MGM National Harbor
Representative from Scientific Games
Representative from Pollard Banknote
Representative from International Game Technology (IGT)

E. Randolph Marriner, Chair

Diane M. Croghan, George L. Doetsch, Jr., Harold E. Hodges, James J. Stakem, Jerry E. Williams

QUORUM ESTABLISHED

Chair Marriner announced that there was a quorum present for the meeting. Also present virtually were: Vice Chair George Doetsch, Commissioners Diane Croghan, Harold Hodges, James Stakem, and Jerry Williams.

CALL TO ORDER

Chair Marriner called the meeting of the Maryland Lottery and Gaming Control Commission to order at 10:00 a.m.

APPROVAL OF THE AGENDA

Chair Marriner asked for a motion to approve the agenda. Vice Chair Doetsch motioned to approve, Commissioner Stakem seconded, and the motion was unanimously approved.

APPROVAL OF THE MINUTES

Chair Marriner asked if there were any comments or corrections to the minutes of the February 22, 2024, Open Session. There being none, Chair Marriner asked for a motion to approve the minutes. Vice Chair Doetsch motioned to approve, Commissioner Stakem seconded, and the motion was unanimously approved.

Chair Marriner took a moment to thank Commissioner Jerry Williams for his service to the Commission, and announced the appointment of a new Commissioner, Everett Browning.

CONSENT AGENDA

Chair Marriner said the Consent Agenda contains:

1. Four New Instant Ticket Games: #700 (\$1) *Lucky 13*; #702 (\$5) *Gold Bar Bingo 5th Edition*; #703 (\$10) *Money Rush*; and #719 (\$2) *Magic 8 Ball™*;
2. EGD Games and Component Testing: Certified Lab Software, Hardware and Game Certifications: VLTs, Table Game Components, Instant Bingo Machines, Sports Wagering Systems and Kiosks (2/20/24 – 3/25/24);
3. Consent Agreements – Regulatory Violations:
 - a. Hollywood Casino – October 2023;
 - b. Live! Casino – November 2023;
 - c. MGM National Harbor – November 2023; and
 - d. Rocky Gap Casino – November and December 2023
4. Consent Agreements – Mobile Sports Wagering Violations:
 - a. BetMGM – October 2023;
 - b. Crab Sports – November 2023;
 - c. DraftKings – October 2023;
 - d. Hollywood-Penn – November 2023; and
 - e. Maryland Stadium Sub-FBG – December 2023
5. Consent Agreements – Sports Wagering Violations:
 - a. Maryland Stadium Sub-FBG – October 2023
6. Consent Agreements – Underage Violations:
 - a. Hollywood Casino – Case Nos. 2023-01-002 and -003
7. Gaming License Application Denials/Revocations
8. Lottery Retailer License Revocation

9. Staff Reports: James Nielsen, Deputy Director, Chief Operating Officer; James Butler, Assistant Deputy Director, Chief of Staff; Michael Eaton, Managing Director, Gaming; John Mooney, Managing Director, Regulatory Oversight; Solomon Ramsey, Managing Director, Sales and Marketing; Paula Yocum, Managing Director, Chief Financial Officer; Seth Elkin, Managing Director, Communications; and Holly Citko, Principal Counsel, Office of the Attorney General.

Chair Marriner asked if any Commissioners cared to remove and discuss any items on the Consent Agenda. There being no discussion or requests, Chair Marriner asked for a motion to approve the consent agenda. Vice Chair Doetsch motioned to approve, Commissioner Stakem seconded, and the motion was unanimously approved.

OPERATOR REPORTS

Hollywood Casino

Ms. Amy Brennan, General Manager, reported that February gross gaming revenue was up 1.9% year-over-year, primarily driven by revenue and hold being up in table games and sportsbook. Revenue was essentially flat in slots with a slight decrease in hold and revenue was down slightly in poker. In February, the casino celebrated the Lunar New Year, and held several giveaways throughout the month. Hollywood had a Tailgate party for VIPs for the Superbowl. A local band from Cecil County, Trilogy, won the Battle of the Bands on March 15. Team members in February participated in National Wear Red Day on February 2, in support of women's heart health, with an education session for team members, with those benefits-eligible employees receiving a heart monitor. In the community for the first quarter, the casino presented checks and supported matching funds for promotions with customers for House of Hope Animal Rescue, Deep Roots Homeless Shelter and the Christiana Breast Health Initiative. In honor of the Lunar New Year, the casino picked 3 Asian organizations to contribute to as well in February.

Chair Marriner announce Ocean Downs next to give a report. Ms. Bobbi Jones was having difficulty getting onto the call. Chair Marriner moved on to Live! Casino, and Ms. Jones presented Ocean Downs report after Live! Casino.

Live! Casino

Mr. Ryan Eller, General Manager, reported that February gaming revenue was \$59.9 million, up 6.7%. Slot machine revenue was up 11.3%, and table game revenue was down 3.5%, due to hold volumes being strong for the month of February. Poker revenue was up 4% year-over-year. There were strong volumes in slots and table game performance overall for the property. Retail sportsbook finished at \$500,000, down 34% from the prior year. The casino is still seeing declines in handle year-over-year which is mitigated from the initial 70% declines now in the low double digits. The retail sportsbook typically sees the handle decline at 10% to 20%. Retail is starting to stabilize. Live! Casino celebrated the Lunar New Year with a VIP event providing Asian themed entertainment and food. There were several giveaways at the casino in February. Live! Casino held a \$100,000 baccarat tournament and a \$50,000 slot tournament. Entertainment at the casino included comedians Ron White and Tom Segura, and a boxing event, as well as karaoke in the Hall. Team members working during the Superbowl were provided free blue-plate meals, and they were allowed to wear team jerseys. The casino also celebrated Black History Month with educational giveaways. In the community, the casino raised \$17,000 for Special Olympics through the Polar Bear Plunge. Live! Casino held a blood drive with maximum capacity being filled. The casino also supported the Maryland Tourism Coalition. On Maryland Day, the casino had a volunteer event for team members with Meals on Wheels. The casino sponsored MBE Night in

Annapolis, held a Black Heroes Dinner event honoring local leaders for Black History month, and sponsored the Anne Arundel County Chamber of Leadership Luncheon.

Ocean Downs Casino

Bobbi Jones, General Manager, reported that February coin-in was down 2% year-over-year, with a much slower first quarter. Table game drop was down 6.3%, slot machine revenue was down 10.7% year-over-year. Table game revenue was up 22% due to a higher hold which has been trending in the first quarter. The Charity Slot Tournament in February supported the Grace Center for Abused Women and Children raising over \$4,000. The casino held several giveaways in the month of February. In Poseidon's Restaurant, the casino continued the All-You-Can-Eat Shrimp Night. Ocean Downs held the annual Team Member and Leader of the Year Awards, selecting team members from the front and back of the house. Team member surveys were completed on ways to improve the property, with a buffet for the team members that participated in the surveys. Ocean Downs experienced a power failure on February 20 between the casino's UPS, main power and generator. The casino has switched out of bypass mode, and is waiting for parts for repairs to be completed and updated.

Rocky Gap Casino

Mr. Brian Kurtz, General Manager, shared Rocky Gap's thoughts and condolences for the Key Bridge workers that lost their lives. In February, gaming revenue was down 18.6%, driven by a decrease of coin-in of 17%. Table game drop was flat, with a 9% decrease in hold. There was good volume in table games with many winners. Overall, property visitation decreased compared to last year. Since the rewards system transition, the casino lost some functionality but are now standing back up compared to prior operations. In March, Rocky Gap launched its new app. The vehicle giveaway day saw the best coin-in day of the year. Mr. Kurtz said in the coming months, the casino should see more connections and additional functionality with the app and some of the other operational systems. Despite down revenues for January and limitations in February, the casino hopes to see the numbers get back to prior year numbers in April, May, and June. The casino held multiple giveaways and promotional games in February. The viewing party at the casino for the Superbowl was sold out. Rocky Gap had a Bonkerz Comedy Show that was also sold out. In the community, the casino concluded the Windy Pines Animal Rescue collection. Food collection for the Western Maryland Food Bank started on March 1 and will run until April 27. In March, Rocky Gap Casino was a contributor to the Hooley Plunge. The HR Team provided hoagies to team members on the property, and on Valentine's Day provided team members with an assortment of sweet treats. The team member of the month was celebrated. The local Maryland State Police barracks conducted an underage sting operation with multiple people denied entry at the podium when attempting to enter the casino and at every food and beverage outlet they went to.

Commissioner Hodges asked questions directed to all operators who already reported, asking if the casino maintains metrics on the number of winners in terms of number of accounts as to a percentage of total sales, and if so, does the casino track on a monthly or per-year basis. He asked that they give a little perspective as to what it looks like now versus the prior period. Commissioner Hodges also asked from a marketing standpoint, is there a threshold where the casino is obligated to spend a certain percent of revenues per month or per year, in order to have a better sense of the casino's operations.

Mr. Kurtz responded that the casino does track jackpots week-over-week and year-over-year. It is a fluctuating number. After the casino's initial transition in November, casino operation systems were switched from Konami to the Aristocrat Oasis platform, all games were ram cleared so some frequency of hits can increase, but the casino does not look at it as day-by-day or week-by-week

but from a quarter-to-quarter perspective because one day can look catastrophic but over a long frequency of time it can normalize itself. For marketing programs, the casino shifts depending on what is happening in the market as far as the dollars spent and how they are spent. Without getting into specifics, the casino will shift those dollars to get the best bang for the buck, or if seeing slight declines in certain market areas. The casino's marketing program, as they are moving and the environment changes based on age demographics, marketing programs shift at times as to how marketing dollars are deployed, what was used, digital versus print, to even radio to streaming. There are deployments that the casino does as a regular cost of doing business such as a direct mailer. The casino is constantly looking and shifting outside marketing firms, looking at national trends and analytical data, major feeder markets being in a smaller regional location, looking to drive from the outside in, less of population density, definitely look at where the casino can draw in new business and maintain the current business that the casino has.

Commissioner Hodges stated that he appreciated the information, and does not want the casino to divulge any trade secrets. He wanted a sense of how the casinos approach marketing and operational spending.

Chair Marriner asked Commissioner Hodges if there were any further questions. Commissioner Hodges asked to hear from the other casinos.

Mr. Eller stated the approach is similar with all casinos regarding marketing and performance. He characterized tracking winners regarding tables and slots, looking at both the casino side as well as the player side. It is tracked from the game side to make sure games are running properly the same way you merchandise and manage a grocery store. All casinos have the same slot product and same table games, and each casino merchandises and promotes them slightly differently for what they think will work for their customer base. The casino must look at performance as well. Table games in particular tend to be more volatile than slots. It requires scrutiny. On the player side, table game players tend to be more volatile than slots players. There is a big departure on what the casino tracks such as the theoretical win (Theo) based on statistical performance, as well as actual which often depart on a day-to-day basis, but merge statistically over time if the casino continues tracking. If they do not change, it indicates problems. Then the casino will adjust the marketing to correspond with actual lifetime or statistical values of those customers. It should be based on the theoretical performance of the game after multiple visits rather than one day. A player might have hit a jackpot, or may have had a big win or a big loss, so to invest in the theoretical value over time is generally what drives the decisions so poor decisions are not made based on statistical anomalies on how the casino gains or a player might perform based on a decision that is not statistically sufficient. This is unique to the casino's business and is not something when looking at other marketing schemes or other businesses that has that same statistical anomaly and how the casinos look at marketing.

Commissioner Hodges asked if it was by customer or anonymous by groups. Mr. Eller stated it is based on both. The casino ideally likes to do it by customer because it is then more tailored and the casino has a better understanding of exactly what that is, but casinos have several unrated customers that play slot machines that the casino does not necessarily know. With that, the casino would look at game performance and the aggregate performance over time and the casino's investment needs to correspond to what the long-term performance the casino would expect. The reality is that it is much harder to market to unrated players because there is not a means to communicate with them. That is where we have digital promotions, retail promotions, advertising and billboards as that is the marketing that touches everyone. When on the floor, promotions can benefit untracked customers but can tailor it. That is what customers value, the loyalty programs, those tailored offers based on the fact that the casino can give customers more based on their experience at the casino.

Commissioner Hodges noted there is a lot of data collected, and asked who owns the data, and wanted to know who, the casino or the commission, has access to that and how it works.

Chair Marriner said that is all propriety. He asked if Ms. Jones had anything to add.

Ms. Jones stated that the casino tracks and gets reports every day on the number of jackpots per day. The casino runs an annual report and check to make sure that the Theos at the machine are correct with the Theos on the par level that are set. Ocean Downs casino just finished doing that at the property. The only other thing to add is detailing each offer to the players. Ocean Downs competes with Delaware, so the casino did a competitive shop with Delaware to check and see what Delaware is doing different or better. We got some ideas and are now rolling out a new campaign in an effort to draw in some of those customers in the battleground area.

Chair Marriner asked if Ms. Brennan would like to add anything.

Ms. Brennan stated that the casinos are all doing the same things. Winners are tracked, but there is some level of volatility. The casinos do not know when a slot machine will hit. A couple of weeks ago on a Monday, Hollywood Casino exceeded the average jackpot payout by three times, so there is some level of volatility. The casino is managing and monitoring the casino's liability with terms of marketing spend. It has to do with what the redemption rates are. The marketing side has evolved. Marketing used to be sent by mail and now there are apps and email promotions. It is always a guess as to how many guests will participate in a promotion. Sometimes it is more and sometimes it is less, and that is where the liability may vary.

Chair Marriner noted it is not a perfect science.

Horseshoe Casino

Mr. Lee Howard, Vice President, Gaming, reported that in February slot machine revenue was \$10 million, table games were \$5 million, and Sportsbook lost \$100,000. Poker was \$340,000 for the month. The casino is currently running a \$15,000 Blackjack Tournament on Thursdays, a \$10,000 Mini-Baccarat Tournament, and in February and March ran a \$10,000 Craps Tournament. In the community, the casino held two events for the CIAA Tournament. Team members participated in Mobile Feast. Team members also delivered Valentine cards to nursing home patients in Perry Hall. Team members had a Founder's Day Dinner where the employees of the quarter were recognized, with two team members winning Regional Awards with an opportunity to win the Company Award.

In response to Commissioner Hodge's information request on marketing, there are a lot of things done to make sure the casino is marketing to the right people. Looking at revenue, at times looking at jackpots and winners is an assumption about volume, but also make sure the casino creates a great experience for customers. When people win, staff celebrates on the floor making an announcement so everyone understands. In casinos since coin went away, it can be very quiet and seem like people are not winning. People are always winning in the casino, with jackpots going off, and the casino wants to make sure to deliver fun to its customers.

Commissioner Hodges wanted to know how the bridge collapse that occurred is affecting the casino, how it will impact business, and how the casino plans to deal with it.

Mr. Howard said it will have affects in two areas, employees traveling from over there, as well as customers. The casino does not know what the effects are yet, but it will have a long-term economic effect from the port being shut down. It is impossible to know yet what economic effects it will have on the casino and the surrounding area.

Chair Marriner stated that the effects are yet to be calculated as it will be substantial.

Commissioner Hodges addressed the Chair requesting that the Commission send condolences to families impacted by the bridge collapse.

Chair Marriner said he would have the Director do that.

MGM National Harbor

Ms. Melonie Johnson, President and COO, reported that in February gaming revenues were \$66.8 million, up 1.9%. Slot machine revenue was up .01%, table game revenue was up 4.1%, and poker was up 10.8%. The driving increase in revenue was due to the Winter Poker Tournament held in February. Sportsbook wrote 31,041 tickets in February with a 3% hold and a total handle of \$4.2 million. On the operational side, the casino is holding a 2-month program through March 30 entitled Covert Cachet Hero Program, giving away a BMW SUV. The casino celebrated the Year of the Dragon with a line dance. MGM National Harbor had a watch party for the Superbowl on February 11 with two retired NFL players. The casino has had several gift giveaways and kiosk games. There have been multiple entertainment shows at the casino. In response to Commissioner's Hodge's marketing question, MGM National Harbor is doing everything the competitors are doing, as well as using entertainment as an avenue to drive incremental gaming revenue. Trying to cater to every different cultural market in the area to drive visitation to the property. The casino tries to have all shows in the theater break even, capitalizing on the incremental gaming revenue that is driven from that. MGM National Harbor does budget a marketing reinvestment percentage looking at it every month to make sure the casino is in line, driving the right strategy, spending the correct amount of money, giving the correct amount of freeplay in slots and table play. The casino looks at the worth of customers, and that is how the casino reinvests.

Ms. Johnson asked if Commissioner Hodges would like more details on the marketing before she reports on the community service. Commissioner Hodges stated he would be interested but is not sure how much he is entitled to know. Commissioner Hodges asked Chair Marriner if he was allowed to email the casinos directly for additional information. Chair Marriner responded that the casinos can share whatever information they would like to share; it is all proprietary. The markets are similar and it is entirely up to the casinos on what information they provide.

Ms. Johnson states that MGM has seven regional properties and the Las Vegas strip properties and has a robust marketing programs at all of their properties.

Ms. Johnson then continued with her report regarding involvement in the community. MGM National Harbor had Laval High School culinary art students come to the property for a tour of the front of the house culinary and the back of the house. The casino partnered with the Chinese Consolidated Benevolent Association to participate in the Lunar Year Parade, and read books to students at Flintstone Elementary for Black History Month. The casino adopted that school in 2019.

Chair Marriner complimented the flower display in the casino's conservatory. Ms. Johnson thanked the Chair and invited the other commissioners to come and see the new conservatory display that is a teaching opportunity with pods representing Washington, DC, Maryland and Virginia.

VENDOR REPORTS

Scientific Games

Mr. Jeff Hale, General Manager, reported that Scientific Games has had a busy period supporting the high jackpot runs, starting the week off with four high jackpots and are currently down to two. Powerball is climbing to 1 billion, and a \$1.5 million Fast Play jackpot. In February, Scientific Games supported the Lottery Product Management team on the Fast Play Fridays promotion. Scientific Games is currently preparing for the Big Spin game launch April 22. New game Cash Pop will launch on May 6. Both are in the test phase currently. During this current jackpot run, Scientific Games also completed a DR (disaster recovery) failover and continue to run out of the alternate site, staying there until the last jackpot hits. Earlier this week, Scientific Games presented the State of the Industry presentation to Lottery staff for both scratch and draw games. The presentations gave comparisons on how Maryland lines up with other Lotteries across the country, particularly those that do the same things that Maryland does.

Chair Marriner asked how Maryland fared. Mr. Hale stated Maryland was number three in the nation in Fast Play, not down as much as other states on the scratch side, and only slightly down in some areas. In comparison, Maryland is doing quite well.

Pollard Banknote

Mr. Travis Priest, Director of Lottery Marketing, reported that since the last vendor report in November, Pollard has 20 scratch games currently in production, with 19 launched into the market during that same time period. Maryland's overall scratch game sales in the first 38 weeks of Fiscal Year 2024 are at \$744.3 million versus \$747.3 million for the same time in the prior year, down 0.4% fiscal year to date. Despite the highly competitive fiscal numbers, Maryland's \$20 price point is the bright spot, up 25.6% on the fiscal year. Looking at the current quarterly activity, observing the newest \$50 game performance sales, \$5 million Cash is contributing to a growth of an average selling price of \$7.81 versus last year at \$7.29, up just over 7% in the observed average value of players for scratch game purchase transactions. In new game launches coming up, Pollard is proud to be assisting with the Big Spin \$5 scratch off mentioned by Mr. Hale. This particular scratch game offers players a chance to win \$50,000 instantly and also includes an exciting experience where the player can also reveal a spin symbol on the ticket that can be taken to a local retailer to watch an animated wheel spin on terminal monitors to see an actual prize won revealed to them in the store. In addition, there is also a chance for an opportunity for a handful of players to spin a real-life Big Spin wheel to win up to \$250,000. Other jurisdictions have a scratch games portfolio activity growth rate of -2.1%; top 10 US lotteries performance shows average growth rate of 2.5%, with most exclusively benefiting from the price point introduction of net new \$20, \$30 and \$50 scratch game offerings to their respective portfolios. Pollard met with the Product Development team in January to do a thorough review the past 18 months of scratch game product performance and share what works well, what needs improvement, and what could be applied to future game launches going forward. Pollard is hosting Maryland Lottery staff for a tour at Pollard Banknote production facility in Michigan in April.

International Game Technology (IGT)

Mr. Gary Cherwinski, Senior Director and Account Development Manager, reported that operationally everything is going well. On February 13, IGT completed the data center relocation in Texas for backup which went well. IGT has completed the first quarter patching standard

maintenance to all equipment at the backup data center, and have started the SOC audit engagement for the annual audit, and the network penetration audit process has begun.

DIRECTOR'S REPORT

Director's Report — **John Martin, Director**

Director Martin reported that we are all impacted by the tragic events of the week. MLGCA had the opportunity during the weekly management meeting to address staff. The Agency is still not quite certain of what we know now, two days later. MLGCA's hearts, thoughts, minds go out to offering prayers to those families directly impacted by this tragedy. Looking at where we are during events like this, we reflect on the people working on bridge, people in the port to transport goods, whose lives are forever changed. MLGCA stands by the Governor and Lieutenant Governor and other agencies in offering support, hoping for closure for the families directly impacted. It is going to be a long process, and MLGCA is willing to work with the Governor and the Maryland General Assembly to support the recovery efforts that will take several years.

February of 2024 was a leap year, and MLGCA needed that day to eek ahead of last year by 1% on sales volume. Profit was robust at 21.8% growth for February year-over-year, primarily with increases in jackpot games, Mega Millions and Powerball. The Commission heard from the partners that MLGCA has been on the jackpot run and Multi-Match as well, all contributing to nipping away at year-to-date decreases in profit and sales. MLGCA is edging closer to breaking even, currently down 2.6% in sales through February of 2024. Profit is down 2.7%, but MLGCA is optimistic with the runs that have occurred through the month that it should help both on sales and profit. On the casino side in aggregate, there have been slight improvements to address year-to-date short-falls. February casino revenue was down 6.5%, with contributions down 4.8%. On the sports wagering side, it is a slightly different story with year-to-date handle being over \$3.5 billion, year-to-date tax contribution to State of slightly over \$37 million. Today is opening day, maybe we need the distraction more today than ever, and we hope to get the game in today. We are anxious to support the Orioles as MLGCA does every year with various promotions and on-site events.

Commissioner Hodges thanked Director Martin for his comments. He referred to the report sent out on legislative changes happening, and asked about HB1218, altering allocation of proceeds, wanting to know what exactly will be altered in that allocation. Director Martin asked James Butler to speak on that, noting that there are still a few days left in the legislative calendar so everything is still in a proposed state, and nothing has been finalized yet. The next few days will be very aggressive getting those bills to closure. Mr. James Butler addressed Commissioner Hodges regarding HB1218 - stating that the iLottery bill already had a bill hearing, but has not been voted out of committee. MLGCA does not know what will happen to it yet. Several gaming and lottery bills are still in committee and MLGCA will not know until closer to end of session on April 8 which bills will pass and make it out of committee, out of chambers, and eventually voted into law. An update will be provided at such time.

Commissioner Hodges stated that HB1192 refers to circumstances in which MLGCA disqualifies an applicant. He asked what the circumstances are thought to be and how the bill is defining moral turpitude. Mr. Butler said that bill deals with crimes of moral turpitude and there is already a section on what MLGCA can disqualify an applicant for. The bill reads that individuals who have minor infractions are going to be allowed to have employment as long as that individual is not on the gaming floor. It could be back-of-house employment, and the casinos can make a recommendation to the Commission to employ that individual. It is for job creation. We support this bill with the House and Senate on this matter.

COMMISSION ACTION ITEMS

Deputy Director, Chief Operating Officer – James Nielsen

Commission Action Item – Proposed Amendments to Sports Wagering Regulations

Mr. Nielsen reported that on December 29, 2023, numerous proposed amendments to Agency regulations, as approved by the Commission, were initially published in the *Maryland Register*. The proposed amendments affected regulations in:

COMAR 36.03 – Gaming
COMAR 36.04 - VLT Technical Standards
COMAR 36.07 - Instant Bingo
COMAR 36.10 – Sports Wagering
COMAR 36.11 – Sports Wagering Application Review Commission

During the 30-day public comment period for the proposed amendments, the Agency received one set of public comments, which are published on the Agency’s website for the Commission’s and the public’s review. <https://www.mdgaming.com/maryland-sports-wagering/sports-wagering-regulations/>

The public comment period has concluded, and the proposed regulatory amendments are now before the Commission for approval for their final publication in the *Maryland Register*. If approved by the Commission, they will take effect 10 days after publication.

MLGCA requests the Commission’s approval of the proposed amendments as published for which no public comment was received.

There were no public comments on the proposed amendments to existing regulations in COMAR 36.03, 36.04, 36.07, and 36.11, and – except for four regulations in COMAR 36.10– there were no public comments on COMAR 36.10. Staff recommends that the Commission approve all of those proposed amendments to existing regulations as published for which no public comment was received.

Four regulations with proposed amendments were the subject of public comment. Staff requests that the Commission approve three of the amendments as published, and one with non-substantive changes:

COMAR 36.10.10 Enforcement of Voluntary Exclusion Program

.03 Requirements.

A. (text unchanged)

B. A sports wagering licensee shall:

(11) *Ensure that an advertisement for sports wagering, video lottery terminal, or table game play does not include language that suggests an outcome is guaranteed **or without risk**.*

Draft Kings requested deleting the words “or without risk.” However, this amendment addresses consumer protection-related concerns expressed to Agency staff about Maryland Sports Wagering Licensees that were advertising and offering “risk free” wagers. The amendment also reinforces the Director of Audit and Regulatory Compliance’s 11/21/2022 Directive on that issue prohibiting the use of “risk-free”. The Agency recommends approval as published, with no changes, leaving in “or without risk”.

The next regulation:

36.10.13 Sports Wagering Licensee Minimum Internal Control Standards

One licensee suggested clarification of the proposed amendment to regulation 41C. (1) (c) and (d) about restrictions and conditions on cashing out promotional credits. Suggested language was provided with the licensee's comments. We agree with the clarification, but rephrased the language to comply with the COMAR style manual. The proposed regulation would read as:

...(c) Providing a clear and conspicuous method for a bettor to cancel the bettor's participation in a promotion that utilizes restricted sports wagering credits that a bettor cannot cash out until an applicable wagering requirement, restriction, or condition on using the credits is met;

(d) When a bettor requests cancellation, the sports wagering licensee shall inform [[informing]] the bettor of the amount of unrestricted funds that will be returned to the bettor's sports wagering account upon cancellation, and the value of restricted funds that will be removed from the bettor's sports wagering account;

The Agency recommends approval with the clarifying non-substantive changes indicated.

Also, in regulation .41 C. (2) (c) there was the same request to remove the words "or without risk" As with the earlier request Staff recommends that the language not be changed.

36.10.13 Sports Wagering Licensee Minimum Internal Control Standards

.41 Consumer Protection.

C. Promotional Offers — Responsibility of Licensee.

(2) A sports wagering licensee, directly or through a contractor or vendor on behalf of the licensee, may not:

*(c) Include in an advertisement language that suggests the outcome is guaranteed **or without risk;** or*

Comments the Agency received from one licensee requested that two clauses in Regulation .06 F. (2) (a) be removed. Those two clauses involve reporting and review requirements for reserves.

36.10.14 Sports Wagering Requirements and Limitations

.06 Reserve.

F. Surety Bonds.

(2) A surety bond shall:...

(v) Require the sports wagering licensee to provide an updated listing of winning wagers that form the basis of the reserve to the Agency within 72 hours;

(vi) Includes a statement that within 24 hours of receiving the updated listing of winning wagers that form the basis of the Reserve that the Agency will commence review of the list of outstanding patron accounts;

Staff recommends retaining the current language; however, Staff will revisit this issue as part of the annual regulatory review to be conducted later in 2024. The Agency recommends approval as published, with no changes.

Commissioner Hodges, going back to the first proposed amendment, wanted Mr. Nielsen to clarify that the language being proposed in the amendment is it to maintain the risk element when it goes out to announce to the public and not link to the other amendment, so the enforcement program will still include the risk statement.

Mr. Nielsen stated the operators will not be permitted to make a claim that a particular promotional wager is without risk.

Commissioner Hodges asked if that is also linked to the other amendment. Mr. Nielsen said it is basically the same request.

Chair Marriner asked for a motion, except for COMAR 36.10.13.41, to approve for final publication in the *Maryland Register* all proposed amendments to Agency regulations that were initially published on December 29, 2023. Commissioner Williams motioned, Commissioner Stakem second, and the motion passed unanimously.

Chair Marriner asked for a motion to approve for final action publication in the *Maryland Register* proposed amendments to COMAR 36.10.13.41 as published on December 29, 2023, as modified with the clarifying non-substantive changes described above and discussed today. Vice Chair Doetsch motioned, Commissioner Williams second, and the motion passed unanimously.

Chair Marriner asked for a motion to delegate MLGCA Staff the authority to make any non-substantive changes to the approved regulatory amendments that may be necessary to prepare them for publication in the *Maryland Register*. Vice Chair Doetsch motioned, Commissioner Stakem second, and the motion passed unanimously.

CLOSED SESSION

There was no need for the Commission to go into a closed session.

DATE AND TIME OF NEXT MEETING

The next Commission meeting will be held on Thursday, April 25, 2024, at 10:00 a.m. in person at Lottery Headquarters and via video conference.

Chair Marriner again thanked Commissioner Williams for his service to the Commission. Mr. Williams stated it has been a pleasure serving.

ADJOURNMENT

There being no further business, Chair Marriner adjourned the meeting at 11:02 a.m.

Respectfully submitted,


John Martin
Director