

**Title 36**  
**MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**  
**Subtitle 08 SKILLS-BASED AMUSEMENT DEVICES**  
**Chapter 01 General**

Authority: Criminal Law Article, §§12-301 and 12-301.1; State Government Article, §§9-101 and 9-1B-02; Annotated Code of Maryland

**.01 Scope.**

This subtitle applies to skills-based amusement devices regulated by the Commission under Criminal Law Article, §§12-301 and 12-301.1, and State Government Article, Title 9, Subtitle 1B, Annotated Code of Maryland.

**.02 Definitions.**

A. In this subtitle, the following terms have the meaning indicated.

B. Terms Defined.

(1) “Merchandise device” means a skills-based amusement device by which a player controls a mechanical or electromechanical claw or other device to retrieve merchandise or prizes.

(2) “Minimal value” means having a wholesale value of not more than ~~[\$30]~~[\$40].

(3) “Reasonable player” means a first-time player of average levels of intelligence, physical and mental skills, reaction time, and dexterity.

(4) “Redemption device” means a skills-based amusement device that issues only tickets, tokens or other objects that represent or that can be converted into merchandise or prizes.

(5) “Skill” means:

- (a) A learned ability of doing a thing competently;
- (b) A particular ability, strategy, or tactic;
- (c) A coordinated set of actions, including, but not limited to, eye-hand coordination;
- (d) Dexterity, fluency, or coordination in the executing of learned physical or mental tasks or combination thereof;
- (e) Technical proficiency or expertise;
- (f) Development or implementation of a strategy or tactics in order to achieve a goal; or
- (g) Knowledge of the means or methods of accomplishing a task.

(6) “Skills-based amusement device” means a machine, apparatus, or device that:

(a) Operates or can be made to operate by inserting, depositing, or placing with another person money, a token, or another object; and

(b) Through the use of skill awards the user:

(i) Merchandise or prizes;

(ii) A ticket, token, or other object that represents or that can be converted into merchandise or prizes; or

(iii) The right to receive an item specified in §B(6)(b)(i) or (ii) of this regulation.

Proposed

**Title 36**  
**MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**  
**Subtitle 08 SKILLS-BASED AMUSEMENT DEVICES**  
**Chapter 02 Registration**

Authority: Criminal Law Article, §§12-301 and 12-301.1, Annotated Code of Maryland

**.01 Registration.**

- A. The owner of a skills-based amusement device shall register with the Commission every other year if the device awards prizes other than the award of free play.
- B. A person required to register shall provide in a manner specified by the Commission:
- (1) The name and address of owner of the device;
  - (2) The address of the location where the device is operated;
  - (3) A total count of the devices in operation with an indication whether the device is:
    - (a) A redemption device;
    - (b) A merchandiser device; or
    - (c) Another type of skills-based amusement device;
  - (4) Evidence of payment of admissions and amusement taxes as authorized under Tax General Article, Title 4, Annotated Code of Maryland; and
  - (5) Any additional information required by the Commission.
- C. For each device registered under this chapter, the Commission shall:
- ~~[(1) Assign a skills-based amusement device registration number; and]~~
  - ~~[(2)]~~(1) Issue a registration certificate; and
  - (2) Issue a sticker for each device.
- D. The owner of a skills-based amusement device required to register under this chapter shall ~~adhere~~ affix the registration sticker to the device in a location visible to inspection.
- E. An owner registered under this regulation may operate skills-based amusement devices in accordance with this subtitle.

**Title 36**  
**MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**  
**Subtitle 08 SKILLS-BASED AMUSEMENT DEVICES**  
**Chapter 03 Amusement Gaming License**

Authority: Criminal Law Article, §§12-301 and 12-301.1; State Government Article, §§ 9-1B-01  
9-1B-02; Annotated Code of Maryland

**.01 Definition.**

A. In this subtitle, the following term has the meaning indicated.

B. Term Defined. “Family entertainment center” has the ~~[same definition as provided under]~~ meaning stated in State Government Article, ~~[Title 9, Subtitle 1B,]~~ § 9-1B-01 Annotated Code of Maryland.

**.02 Amusement Gaming License.**

A. A family entertainment center in Worcester County may apply for an amusement gaming license with the Commission if the family entertainment center:

(1) Pays:

- (a) State and local property tax;
- (b) Sales and use tax; and
- (c) Admissions and amusement tax;

(2) Has a location with a street address;

(3) Is located in a building that is owned, leased, or occupied by the family entertainment center for the primary purpose of providing amusement devices to the public;

(4) Receives a majority of the gross receipts from amusement, merchandise, redemption or skills-based devices;

(5) Markets its business to families with children;

(6) Offers attractions such as amusement devices, arcade games, crane games, video games, interactive and sporting games, amusement rides, miniature golf, and bowling; and

(7) Has been in continuous operation in the same geographic location since 1975.

B. A family entertainment center applying for an amusement gaming license shall provide in a manner specified by the Commission:

(1) The owner’s name and address;

(2) The family entertainment center address;

(3) Documentation verifying, to the satisfaction of the Commission, conformity with the requirements listed under §A of this regulation; and

(4) A listing of the skills-based amusement devices that award merchandise or prizes with a wholesale value of more than ~~[\$30]~~ a minimal value but ~~[less than \$600]~~ does not exceed \$599 including:

- (a) Whether the device is a:
  - (i) Redemption device;
  - (ii) Merchandiser device; or
  - (iii) Another type of skills-based amusement device;
- (b) Maximum wholesale prize value offered;
- (c) Manufacturer;
- (d) Model name or number;
- (e) Serial Number;
- (f) Theme; and
- (g) Any additional information required by the Commission.

C. An amusement gaming license is valid for 5 years.

D. An amusement gaming licensee shall register every other year under COMAR 36.08.02 if the licensee owns any skills-based amusement devices that award prizes other than the award of free play.

E. A family entertainment center that holds an amusement gaming license may operate up to 10 skills-based amusement devices that award noncash merchandise or prizes with a wholesale value that is more than ~~[\$30]~~ a minimal value but ~~[less than \$600]~~ does not exceed \$599.

F. Upon review of the information provided under §B of this regulation, the Commission may:

(1) Require the manufacturer to submit a prototype of the device for testing under COMAR 36.08.04; and

(2) Determine that the applicant is qualified and grant the license.

G. Upon review of the information provided under §B of this regulation, the Commission may conduct a hearing in accordance with ~~[Regulation .06 of this chapter]~~ COMAR 36.01.02.06 to deny the license.

H. A family entertainment center that holds an amusement gaming license issued under this regulation may not transfer the license to another geographic location.

### **.03 Corrective Action.**

A. Deficiency. If ~~[the Director]~~ Agency staff determines that an amusement gaming licensee under this chapter no longer meets an amusement gaming license requirement of this subtitle, or

that there is cause for imposing sanctions under Regulation .04 of this chapter, the ~~[Director]~~Agency may:

(1) Assess the seriousness of the deficiency;

(2) Require the amusement gaming licensee to develop a corrective action plan; and if required: ~~;~~

~~(3)~~(i) Conduct periodic monitoring of an amusement gaming licensee ~~[for which the Director required a corrective action plan]~~ to assess the licensee's progress toward remedying the deficiencies;

~~(4)~~(ii) Evaluate and, if acceptable to the ~~[Director]~~Agency, approve the corrective action plan;

~~(5)~~(iii) Determine appropriate timelines for the completion of corrective action;

~~(6)~~(iv) Determine whether it is necessary during the pendency of the corrective action process to emergently suspend the amusement gaming license; and

~~(7)~~(3) Recommend that the Commission impose a sanction under Regulation .04 of this chapter.

B. Deficiency Notice. If Agency staff determines that a corrective action plan ~~[Upon determining that corrective action]~~ is required to remedy a deficiency, the ~~[Director]~~Agency shall give written notice to an amusement gaming licensee that includes:

(1) A description of the violation;

(2) A description of the possible sanctions; and

(3) The requirement for the licensee to submit a corrective action plan to the ~~[Director]~~Agency within a time frame established by the ~~[Director]~~Agency.

C. Corrective Action Plan.

(1) Within 10 days of receipt of a deficiency notice under §B of this regulation, the amusement gaming licensee shall submit a corrective action plan to the ~~[Director]~~Agency for the ~~[Director's]~~Agency's approval.

(2) The ~~[Director]~~Agency shall review the corrective action plan and inform the licensee whether the corrective action plan is acceptable.

(3) If the licensee fails to submit an acceptable corrective action plan within the time described under §C(1) of this regulation, the ~~[Director]~~Agency may:

(a) Provide the licensee with additional time to submit a revised corrective action plan; or

(b) Impose a sanction on the licensee under Regulation .04 of this chapter.

(4) If the ~~[Director]~~Agency provided a licensee notice under §B of this regulation and received no timely written response, the Commission may adopt as final the ~~[Director's]~~Agency's decision to impose a sanction under Regulation .04 of this chapter.

D. Corrective Action Outcomes.

(1) If at any time during the corrective action plan period the ~~[Director]~~Agency determines that the amusement gaming licensee has failed to fulfill a requirement of the corrective action plan or has made insufficient progress toward remedying a deficiency, the ~~[Director]~~Agency may:

- (a) For good cause, extend the time for completion of a corrective action plan; or
- (b) Emergently suspend the licensee's license.

(2) If at the end of the corrective action plan period the licensee has failed to adequately remedy a deficiency, the ~~[Director]~~Agency may ~~[impose]~~ recommend the imposition of a sanction under Regulation .04 of this chapter.

#### **.04 Sanctions.**

A. The ~~[Director]~~Commission may impose sanctions on an amusement gaming licensee for:

(1) Violating or failing to fulfill the licensee's responsibilities or a condition of a license under this subtitle;

(2) Violating:

- (a) A provision of law;
- (b) A regulation adopted under law; or
- (c) An order or directive of the Commission;

(3) Providing the Commission with false or misleading information;

(4) Failing to cooperate with the Commission;

(5) If a corrective action plan is required by the Agency, [Failing]failing to prepare, submit, or implement an adequate corrective action plan under Regulation .03C of this chapter; or

(6) Other activities or action deemed by the ~~[Director]~~Commission to require the imposition of a sanction.

B. Types of Sanctions. Sanctions may include emergency suspension, suspension, revocation, and placement of ~~[conditions]~~ a condition on the amusement gaming license.

C. Suspension, Revocation and Conditions.

(1) Except as set forth in §D of this regulation, the ~~[Director]~~Agency shall give the amusement gaming licensee notice of the intended ~~[suspension, revocation, or imposition of a condition]~~ sanction at least 15 days before the imposition of the intended sanction.

(2) A licensee may appeal the ~~[Director's imposition of]~~Agency's recommendation to impose a sanction before the date the sanction is imposed by submitting a timely written request for a hearing before the Commission.

(3) A hearing on the Agency's recommendation to impose a sanction shall be in accordance with COMAR 36.01.02.06.

~~(3)~~(4) The final action on a sanction is subject to judicial review as provided in State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

#### D. Emergency Suspension.

(1) Notwithstanding any other requirement of this chapter, if the Director determines that immediate action is necessary to protect against an imminent, serious threat by an amusement gaming licensee to the security, financial stability, reputation or integrity of the State, the Director may suspend a license without prior notice.

(2) If the Director emergently suspends a license, the Director shall provide the licensee with written notice that includes:

- (a) A statement of the authority upon which the suspension is based;
- (b) The nature of the violation;
- (c) The duration of suspension;
- (d) If the Agency permits a corrective action plan, [Information] information about the licensee's obligation to submit to the Agency a corrective action plan; and
- (e) A statement of the licensee's right to request a Commission hearing under COMAR 36.01.02.06.

(3) If after a license is emergently suspended, the licensee does not submit a timely written request for a Commission hearing, the Director may move to revoke the license by giving the licensee notice under ~~§C(1)~~ §C of this regulation.

#### .05 Settlement.

A. The Commission may provide an amusement gaming licensee with the opportunity to discuss with staff a means of entering into a settlement agreement between the licensee and the Commission by which the violation is settled without a penalty or sanction.

B. A settlement agreement:

- (1) Shall be signed by an authorized representative of the amusement gaming licensee and the Director or the Director's designee; and
- (2) May not be considered final and binding until approved by the Commission.

C. If an amusement gaming licensee violates a term of a settlement agreement, nothing in this regulation shall be construed to prevent the Commission from imposing a penalty or sanction against the licensee for that, or the underlying, violation.

#### .06 Hearings.

A. The Commission shall conduct a hearing in order to:

- (1) Deny an amusement gaming license;
- (2) Suspend an amusement gaming license; or



(3) Revoke an amusement gaming license.

B. Denial of an Amusement Gaming License.

(1) After reviewing an application submitted under this chapter, the ~~[Director]~~Agency may recommend that the Commission deny an amusement gaming license.

(2) If the ~~[Director]~~Agency recommends that the Commission deny a license, the ~~[Director]~~Agency~~, or the Director's designee,~~ shall promptly provide the applicant with written notice of the:

(a) Recommendation for denial;

(b) Basis for the recommendation; and

(c) Applicant's right to request a reconsideration meeting with the ~~[Director]~~Agency ~~[or the Director's designee]~~.

(3) An applicant may submit to the ~~[Commission]~~Agency a written request for a reconsideration meeting within 15 days of the date of the notice described in §B(2) of this regulation.

(4) If an applicant fails to timely submit a request under §B(3) of this regulation, the Commission may adopt as final the recommendation of the ~~[Director]~~Agency ~~[or the Director's designee]~~.

(5) During a reconsideration meeting, an applicant may:

(a) Be represented by counsel; and

(b) Present evidence as to why the amusement gaming license should be granted;

(6) If after the reconsideration meeting the applicant is dissatisfied with the recommendation of the ~~[Director]~~Agency ~~[or the Director's designee]~~, the applicant may submit to the Commission, in writing:

(a) A request for hearing before the Commission on the recommendation of the ~~[Director]~~Agency ~~[or the Director's designee]~~; and

(b) The applicant's legal and factual bases for disagreeing with the recommendation of the ~~[Director]~~Agency ~~[or the Director's designee]~~.

(7) An applicant may submit a hearing request to the Commission within 15 days of the date of the recommendation of the ~~[Director]~~Agency ~~[or the Director's designee]~~ after the reconsideration meeting.

(8) If an applicant fails to timely submit a hearing request under §B(6), the Commission may adopt as final the recommendation of the ~~[Director]~~Agency ~~[or the Director's designee]~~.

(9) A hearing request that complies with §B(6) of this regulation shall be the subject of a hearing before the Commission under COMAR 36.01.02.06, after which the Commission shall:

(a) Determine that the applicant is qualified and grant an amusement gaming license; or

(b) Determine that the applicant is not qualified or disqualified; and

(i) Deny the amusement gaming license; and

(ii) Prepare an order denying the amusement gaming license with a statement of the reasons and specific findings of fact.

(10) The applicant shall have the burden to show by clear and convincing evidence it is qualified to hold an amusement gaming license.

~~[(10)]~~ The Commission's decision is final.

C. A Commission hearing shall be conducted in the manner specified in:

(1) State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland; and

(2) COMAR 36.01.02.06.

Proposed

**Title 36**  
**MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**  
**Subtitle 08 SKILLS-BASED AMUSEMENT DEVICES**  
**Chapter 04 General Standards**

Authority: Criminal Law Article, §§12-301 and 12-301.1, Annotated Code of Maryland

**.01 General Standards.**

A. A skills-based amusement device is not legally operated if:

(1) Unless authorized under COMAR 36.08.03, the merchandise, prizes, tickets, tokens, or other objects awarded [~~per play~~] exceeds the minimal value;

(2) The device awards a cash prize or a prize that is readily convertible to cash;

(3) The outcome of the game is based on a preponderance of chance;

(4) The ability of any player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of that device;

(5) The outcome of the game can be controlled by a source other than the player of the game;

(6) The success of any player is or may be determined by a chance event which cannot be altered by player actions;

(7) The ability of a player to succeed at the game is impacted by game features not visible or known to a reasonable player; or

(8) The ability of a player to succeed at the game is impacted by the exercise of skill that no reasonable player could exercise.

B. The merchandise, prizes, tickets, tokens or other objects that are awarded by a skills-based amusement device may be accumulated and exchanged for non-cash merchandise or prizes [~~of value that is similar to the cumulative value of the items exchanged.~~] that have a wholesale value of not more than the minimal value.

C. If a registered skills-based device owner offers a device described in §A of this regulation, the Commission may take enforcement action as provided in Regulation .03 of this chapter.

**.02 Testing.**

A. The Commission may require testing of a prototype of a skills-based amusement device for:

(1) Overall operational integrity;

(2) Compliance with this subtitle; and

(3) Any other function that the Commission determines may be necessary to validate the proper functionality and performance of the device.

B. The Commission may accept testing by:

- (1) Commission staff; or
- (2) A testing facility recognized by the Commission.

C. The costs of testing required under this chapter shall be the responsibility of the licensee.

**.03 Enforcement Action**

A. The Commission may take an enforcement action if a registered skills-based amusement device owner fails to comply with this subtitle.

B. The Commission may:

- (1) Suspend a registered skills-based amusement device owner's registration;
- (2) Determine that the registered skills-based amusement device owner is no longer qualified to offer skills-based amusement devices in Maryland; or
- (3) Disqualify the registered skills-based device owner from qualification for any other license, registration, or certification from the Commission.

C. A skills-based amusement device owner whose registration is suspended or found no longer qualified to offer skills-based amusement devices in Maryland shall:

- (1) Remove its skills-based amusement devices from locations in Maryland;
- (2) Cease offering skills-based amusement devices in Maryland; or
- (3) Take such action required by the Commission to come in compliance with this subtitle.