

Subtitle 06 ELECTRONIC GAMING DEVICES

Notice of Proposed Action

[15-190-P]

The Maryland Lottery and Gaming Control Agency proposes to adopt under a new subtitle, **Subtitle 06 Electronic Gaming Devices**:

(1) New Regulations .01—.03 under a new chapter, **COMAR 36.06.01 General**;

(2) New Regulations .01 and .02 under a new chapter, **COMAR 36.06.02 Lawful and Unlawful Electronic Gaming Devices**;

(3) New Regulations .01—.08 under a new chapter, **COMAR 36.06.03 Application, Licensing, and Registration**;

(4) New Regulations .01—.04 under a new chapter, **COMAR 36.06.04 Electronic Gaming Device General Standards**;

(5) New Regulations .01—.06 under a new chapter, **COMAR 36.06.05 Electronic Gaming Device Technical Standards**; and

(6) New Regulation .01 under a new chapter, **COMAR 36.06.06 Electronic Gaming Device Enforcement**.

This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on May 28, 2015, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to add new regulations to incorporate provisions that better define and refine the requirements for electronic gaming devices.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to James B. Butler, Director of Legislative and Policy Affairs, Maryland Lottery and Gaming Control Agency, 1800 Washington Blvd., Suite 330, Baltimore, MD 21230, or call (410-) 230-8781, or email to jbutler@maryland.gov, or fax to (410) 230-8727. Comments will be accepted through August 10, 2015. A public meeting on these regulations will be held on Wednesday, July 22, 2015, at 10 a.m., at the Maryland Lottery and Gaming Control Agency Headquarters, 1800 Washington Boulevard, Suite 330, Baltimore, MD 21230. Please contact James B. Butler, Director of Legislative and Policy Affairs, if additional information is needed or if you require an accommodation in order to participate in the meeting.

36.06.01 General

Authority: Criminal Law Article, §§12-301 and 12-301.1; State Government Article, §9-110; Annotated Code of Maryland

.01 Scope.

A. This subtitle applies to electronic gaming devices regulated by the Commission under Criminal Law Article, §§12-301 — 12-308, Annotated Code of Maryland.

B. This subtitle applies to all electronic gaming devices, regardless of whether the device delivers a game through the Internet or offers Internet or other services.

C. This subtitle does not apply to:

(1) Slot machines that are subject to regulation by the Comptroller under Criminal Law Article, §12-304, Annotated Code of Maryland;

(2) Lottery devices used by the Agency or, under the authority of the Agency, by a licensed retailer under State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland;

(3) Video lottery terminals or tables games permitted and licensed under State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland;

(4) Instant bingo machines operated in compliance with COMAR 36.07; or

(5) Paper tip jar gaming where authorized.

.02 Definitions.

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

B Terms Defined.

(1) Electronic Gaming Device.

(a) “Electronic gaming device” means an electronic machine, apparatus, or device that can be configured to:

(i) Operate by inserting, depositing, or placing with another person money, a token, or another object; and

(ii) Through the element of chance, the reading of a game of chance, the delivery of a game of chance, or any other outcome unpredictable by the user, award the user anything of value other than an award of free play or the right to receive anything of value other than an award of free play.

(b) “Electronic gaming device” does not include a skills-based amusement device that is operated in compliance with COMAR 36.08.

(2) “Facility” means a location where electronic gaming devices are operated.

(3) “Independent certified testing laboratory” means a person engaged in the testing and verification of electronic gaming devices, skills-based amusement devices and related equipment, systems, and software that:

(a) Holds a certificate in good standing for compliance with:

(i) International Organization for Standardization # 17025 — General Requirements for the Competence of Testing and Calibration Laboratories; and

(ii) International Organization for Standardization # 17020 — General Criteria for the Operation of Various Types of Bodies Performing Inspections;

(b) Has performed testing and certification of gaming equipment, systems, and software on behalf of a state within the United States for a period of 5 or more years;

(c) Has been approved by the Commission to test and certify equipment, systems, and software on its behalf; and

(d) Meets any additional conditions and requirements specified by the Commission.

(4) “Key management” means an individual who owns or operates an electronic gaming device at a facility.

.03 Counties.

A. The Commission may:

(1) Review a county’s licensing and regulatory process for electronic gaming devices; and

(2) Determine upon review that:

(a) The county’s licensing and regulatory process for electronic gaming devices is equivalent to a license from the Commission; and

(b) A county license for owning, operating, or manufacturing an electronic gaming device in the county is equivalent to a license under this subtitle.

B. A decision of the Commission on the equivalency of a county's licensing and regulatory process for electronic gaming devices under this regulation is final and not appealable.

C. Baltimore City and Baltimore County. In addition to the provisions of this title, applicants for electronic gaming devices to be located in Baltimore City and Baltimore County shall be required to be licensed by the jurisdiction in which the electronic gaming devices are located.

36.06.02 Lawful and Unlawful Electronic Gaming Devices

Authority: Criminal Law Article, §§12-301 and 12-301.1; State Government Article, §9-110; Annotated Code of Maryland

.01 Lawful Electronic Gaming Devices.

An electronic gaming device is lawful if it is:

A. Used by the Agency or, under the authority of the Agency, by a licensed retailer under State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland;

B. A video lottery terminal or table game permitted and licensed under State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland;

C. An instant bingo machine operated in compliance with COMAR 36.07;

D. A handheld device operated in compliance with Criminal Law Article, Title 13, Annotated Code of Maryland, and this subtitle that:

(1) Displays only facsimiles of bingo cards that an individual uses to mark and monitor contemporaneously to a live call of bingo numbers called on the premises by an individual where the user is operating the electronic gaming device;

(2) Does not permit a user to play more than 54 bingo cards at the same time;

(3) Does not randomly generate any numbers; and

(4) Is not part of an integrated system; or

E. A device operated in compliance with Criminal Law Article, Title 13, Annotated Code of Maryland, and this subtitle that dispenses paper pull tab tip jar tickets or paper pull tab instant bingo tickets that must be opened manually by the user provided that the machine, apparatus, or device does not:

(1) Read the tickets electronically;

(2) Alert the user to a winning or losing ticket; or

(3) Tabulate a player's winning and losses.

.02 Unlawful Electronic Gaming Devices.

An electronic gaming device is unlawful if it is not authorized by Regulation .01 of this chapter.

36.06.03 Application, Licensing, and Registration

Authority: Criminal Law Article, §§12-301 and 12-301.1; State Government Article, §9-110; Annotated Code of Maryland

.01 Process.

A. Upon filing an application for a license under this subtitle, the applicant shall pay a nonrefundable application fee established by the Commission.

B. Applications. Documents submitted to the Commission under this chapter shall consist of an original and shall be in the format required by Commission.

C. Application Review.

(1) Upon receipt of an application by the Commission, the Commission shall review the application to determine whether it contains all the information required under this chapter.

(2) If the Commission determines that the required information has not been submitted, the Commission shall notify the applicant in writing and state the nature of the deficiency.

(3) An applicant notified in accordance with §C(2) of this regulation may submit the documents necessary to complete the application not later than 15 days after issuance of the notification.

(4) An applicant who is notified in accordance with §C(2) of this regulation and who fails to submit the requested documents in a timely manner need not be certified by the Commission, and the Commission need not consider the application.

D. Changes in Application.

(1) If information submitted by an applicant as part of a license application changes or becomes inaccurate before the Commission acts on the application, the applicant shall immediately notify the Commission in writing of the change or inaccuracy.

(2) After an application has been filed by an applicant, the applicant may not amend the application except:

(a) To address a deficiency in accordance with a notice sent under §C(2) of this regulation;

(b) As required by the Commission or Commission staff for clarification of information contained in the application; or

(c) To address a change in the circumstances surrounding the application that was outside the control of the applicant and that affects the ability of the applicant to comply with the law or the regulations of the Commission.

(3) To amend an application under §D(2)(c) of this regulation, an applicant shall file with the Commission a written request to amend the application, stating:

(a) The change in the circumstances surrounding the application that necessitates the amendment;

(b) The nature of the amendment; and

(c) The reason why the amendment is necessary to bring the application into compliance with the law or the regulations of the Commission.

(4) The Commission shall grant or deny each request filed under §D(3) of this regulation.

(5) A request shall be granted if the applicant demonstrates to the satisfaction of the Commission that:

(a) The circumstances requiring the amendment were outside the control of the applicant;

(b) Before the change in the circumstances surrounding the application, the application complied with the pertinent provisions of the law or the regulations of the Commission; and

(c) The amendment is necessary to bring the application into compliance with the pertinent provisions of the law or the regulations of the Commission.

(6) An application for a license may be withdrawn if the:

(a) Applicant submits a written request to the Commission to withdraw the application; and

(b) Written request is submitted before the Commission has denied the application.

E. Payment and Collection. Applicants shall pay the administrative costs and fees required under this regulation by:

(1) Money order;

(2) Certified check made payable to the "State of Maryland";

or

(3) Any other manner designated by the Commission.

F. Continuing Obligations.

(1) Applicants who are awarded a license shall, during the term of their licensures, conform to all of the information contained in their license applications.

(2) Failure to conform to the information contained in a license application shall be grounds for the Commission to invoke against the licensee the sanctions described in Regulation .06 of this chapter.

.02 Personal and Background Information.

A. Except as otherwise provided by this regulation, the application documents submitted under Regulation .01B of this chapter shall include the information under §B of this regulation, for an individual who is in a key management position.

B. An individual in a key management position shall furnish the following:

- (1) Full name and any previous names or aliases;
- (2) Date of birth;
- (3) Home and facility addresses and telephone numbers;
- (4) Email address;
- (5) Driver's license number and state of issuance; and
- (6) Social Security number.

C. If the applicant is a corporation, the application documents shall state the:

- (1) State in which the applicant is incorporated; and
- (2) Name and address of the applicant's agent for service of process in Maryland.

D. If an applicant is a nonprofit corporation, only an individual who is a director or officer of the applicant shall provide the information required under §B of this regulation.

E. Inadvertent, nonsubstantive errors that might be made in furnishing the information required by this regulation may not be used as a reason by the Commission for disqualifying the applicant.

.03 Electronic Gaming Device Facility License.

A. General. Unless an individual in a key management position holds a valid electronic gaming device facility license issued by the Commission, an individual may not operate electronic gaming devices.

B. Application Fees. Beginning July 1, 2016, the application fee for an electronic gaming device facility license is \$50 for each electronic gaming device that is in operation at the facility, subject to annual adjustments by the Commission.

C. The electronic gaming device facility license issued by the Commission shall specify the maximum number of electronic gaming devices that may be operated under the electronic gaming device facility license.

D. The Commission may issue an electronic gaming device facility license subject to conditions.

E. The Commission may issue an electronic gaming device facility license after determining that:

- (1) The applicant has paid the application fee under §B of this regulation;
- (2) The applicant has furnished the Commission with the information and documentation required under this chapter;
- (3) The facility complies with the regulations of this title; and
- (4) All electronic gaming devices and associated equipment to be used in the facility have been tested and comply with any standards established by the Commission.

F. An electronic gaming device facility licensee has a continuing duty to inform the Commission of an act or omission that the licensee knows or should know constitutes a violation of the Commission's regulations.

G. Term; Renewal; License Renewal Fee.

- (1) The term of an electronic gaming device facility license is 1 year.
- (2) The Commission may renew the license if, before the term of the license expires, the licensee:
 - (a) Applies for renewal;
 - (b) Continues to comply with all licensing requirements; and

(c) Pays a license application fee in the amount that is required under §B of this regulation.

.04 Electronic Gaming Device Manufacturer/Distributor Licenses.

A. General.

(1) Unless a manufacturer or distributor holds a valid electronic gaming device manufacturer/distributor license issued by the Commission, the manufacturer or distributor may not offer electronic gaming devices.

(2) The following persons shall meet the Commission's electronic gaming device manufacturer/distributor license requirements:

- (a) A manufacturer or distributor; and
- (b) Each person that owns, controls, or is a representative of a manufacturer or distributor.

B. Application Fees. Beginning July 1, 2016, the application fee for a manufacturer or distributor is \$150 for each electronic gaming device provided by the manufacturer or distributor that is in operation in the State, subject to annual adjustments by the Commission.

C. The electronic gaming device manufacturer/distributor license issued by the Commission shall specify the maximum number of electronic gaming devices that may be offered by the manufacturer or distributor under the electronic gaming device manufacturer/distributor license.

D. The Commission may issue an electronic gaming device manufacturer/distributor license subject to conditions.

E. The Commission may issue an electronic gaming device manufacturer/distributor license after determining that:

- (1) The applicant has paid the application fee under §B of this regulation;
- (2) The applicant has furnished the Commission with the information and documentation required under this chapter;
- (3) The applicant complies with the regulations of this title; and
- (4) All electronic gaming devices and associated equipment to be offered by the manufacturer or distributor have been tested and comply with any standards established by the Commission.

F. A manufacturer/distributor licensee has a continuing duty to inform the Commission of an act or omission that the licensee knows or should know constitutes a violation of the Commission's regulations.

G. Term; Renewal; License Renewal Fee.

- (1) The term of an electronic gaming device manufacturer/distributor license is 1 year.
- (2) The Commission may renew the license if, before the term of the license expires, the licensee:
 - (a) Applies for renewal;
 - (b) Continues to comply with all licensing requirements; and
 - (c) Pays a license application fee in the amount that is required under §B of this regulation.

.05 Corrective Action.

A. Deficiency. If the Director determines that a licensee under this subtitle no longer meets a license requirement of the subtitle, or that there is cause for imposing sanctions under Regulation .06 of this chapter, the Director may:

- (1) Assess the seriousness of the deficiency;
- (2) Require the licensee to develop a corrective action plan;
- (3) Determine whether it is necessary during the pendency of the corrective action process to emergently suspend the license;
- (4) Evaluate and, if acceptable to the Director, approve the corrective action plan;
- (5) Determine appropriate timelines for the completion of corrective action;

(6) Conduct periodic monitoring of a licensee for which the Director required a corrective action plan to assess the licensee's progress toward remedying the deficiencies; and

(7) Recommend that the Commission impose a sanction under Regulation .06 of this chapter.

B. *Deficiency Notice.* Upon determining that corrective action is required to remedy a deficiency, the Director shall give written notice to a 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 within a time frame established by the Director.

C. *Corrective Action Plan.*

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

(2) The Director 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 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 .06 of this chapter.

(4) If the Director provided a licensee notice under §B(3) of this regulation and received no timely written response, the Commission may adopt as final the Director's decision to impose a sanction under Regulation .06 of this chapter.

D. *Corrective Action Outcomes.*

(1) If at any time during the corrective action plan period the Director determines that the licensee has failed to fulfill a requirement of the corrective action plan or has made insufficient progress toward remedying a deficiency, the Director 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 may impose a sanction under Regulation .06 of this chapter.

.06 Sanctions.

A. *The Director may impose sanctions on a 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 the law;
 - (b) A regulation adopted under the 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) Failing to remit, or failing to make timely remittance of, funds owed to the Commission;
- (6) Failing to prepare, submit, or implement an adequate corrective action plan under Regulation .05C of this chapter;
- (7) Incurring criminal charges related to the conduct of illegal gaming;
- (8) Possessing materials or equipment indicating involvement by the licensee or the licensee's employees in the conduct of illegal gaming; or
- (9) Other activities or action deemed by the Director to require the imposition of a sanction.

B. *Types of Sanctions.* Sanctions may include emergency suspension, suspension, revocation, and placement of conditions on the license.

C. *Suspension, Revocation, and Conditions.*

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

(2) A licensee may appeal the Director's imposition of a sanction before the date the sanction is imposed by submitting a request for a hearing before the Commission.

(3) 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 a 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) 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.

(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) of this regulation.

.07 Settlement.

A. *The Commission may provide a 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 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 a 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.*

.08 Hearings.

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

- (1) Deny a license;
- (2) Suspend a license; or
- (3) Revoke a license.

B. *Denial of a License.*

(1) After reviewing an application submitted under this chapter, the Director may recommend that the Commission deny a license.

(2) If the Director recommends that the Commission deny a license, the Director, 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 or the Director's designee.

(3) An applicant may submit to the Commission 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 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 license should be granted.

(6) If after the reconsideration meeting the applicant is dissatisfied with the recommendation of the Director 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 or the Director's designee; and

(b) The applicant's legal and factual bases for disagreeing with the recommendation of the Director 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 or the Director's designee after the reconsideration meeting.

(8) If an applicant fails to timely submit a hearing request under §B(6) of this regulation, the Commission may adopt as final the recommendation of the Director 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, after which the Commission shall:

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

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

(i) Deny the license; and

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

(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.

36.06.04 Electronic Gaming Device General Standards

Authority: Criminal Law Article, §§12-301 and 12-301.1; State Government Article, §9-110; Annotated Code of Maryland

.01 Compliance with Federal Law.

A person who transports an electronic gaming device shall comply with applicable provisions of 15 U.S.C. §§1171—1178, commonly known as the Johnson Act.

.02 Transportation.

A. Unless otherwise directed by the Commission, a licensee shall submit written notice on a quarterly basis to the Commission indicating transportation of an electronic gaming device.

B. For each electronic gaming device transported, a licensee shall submit to the Commission a written notice containing:

(1) The name and address of person initiating transportation;

(2) The name and address of the destination;

(3) The name and address of the manufacturer or distributor;

(4) A description of the device to be transported

(5) The device certification number; and

(6) Any other information requested by the Commission.

C. A licensee under this subtitle shall promptly submit to the Commission written notice of any changes to the information already submitted as required under §B of this regulation.

.03 Register.

A. The Commission shall maintain a register of each electronic gaming device placed in operation in the State.

B. For each electronic gaming device placed into operation, the Commission shall:

(1) Assign a device certification number; and

(2) Assign a certification tag that shall be affixed to the device.

C. If an electronic gaming device is transported outside of a facility, a licensee shall:

(1) Remove the certification tag; and

(2) Submit the certification tag to the Commission with the written notice required under Regulation .02 of this chapter.

.04 Testing.

A. The Commission may test electronic gaming devices and associated equipment for:

(1) Accuracy; and

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

B. The Commission may accept prior testing by an independent certified testing laboratory or other testing facility recognized by the Commission.

36.06.05 Electronic Gaming Device Technical Standards

Authority: Criminal Law Article, §§12-301 and 12-301.1; State Government Article, §9-110; Annotated Code of Maryland

.01 Testing, Certification, and Approval of Equipment, Systems or Software.

A. A manufacturer or distributor may not offer the equipment, systems, or software enumerated in §E of this regulation, or a modification to a Commission-approved version of that equipment, system, or software, for sale, lease, distribution, or use in a facility without it having been:

(1) Tested and certified by:

(a) An independent certified testing laboratory;

(b) The Commission; or

(c) Other testing facility recognized by the Commission; and

(2) Approved in writing by the Commission.

B. An electronic gaming device facility licensee may not purchase, lease, or otherwise acquire the right to install, utilize, or make available for use the equipment, systems, or software enumerated in §E of this regulation, or a modification to a Commission-approved version of that equipment, system, or software, without it having been:

(1) Tested and certified by:

(a) An independent certified testing laboratory;

(b) The Commission; or

(c) Other testing facility recognized by the Commission; and

(2) Approved in writing by the Commission.

C. An electronic gaming device facility licensee may not modify, alter, or tamper with an electronic gaming device.

D. Modification or alteration of or tampering with an electronic gaming device may result in the immediate suspension of a license by the Commission.

E. The testing, certification, and approval requirements of this regulation shall, at a minimum, apply to:

(1) An electronic gaming device; and

(2) Any component of the device.

F. A prototype of equipment, system, or software required to be tested, certified, and approved under §E of this regulation, or a modification to a Commission-approved version of that equipment, system, or software shall, at a minimum, be tested for:

- (1) Overall operational integrity;
- (2) Compliance with applicable State laws and Commission regulations; and
- (3) Any other standards required by the Commission pertaining to the equipment, system, or software.

G. If a facility develops any equipment, system, or software that is functionally equivalent to that enumerated in this regulation, or modifies a Commission-approved version of that equipment, system, or software, the facility shall be subject to the testing, certification, and approval requirements of this chapter to the same extent as if the equipment, system, or software were developed or modified by a manufacturer.

H. A manufacturer or distributor shall pay all costs of testing, certification, and approval under this chapter, including, but not limited to, all costs associated with:

- (1) Transportation;
- (2) Equipment and technical services required to conduct the testing and certification process; and
- (3) Implementation testing.

.02 Submission of an Electronic Gaming Device for Testing and Certification.

A. A manufacturer or distributor seeking Commission approval for an electronic gaming device shall submit a prototype of the electronic gaming device to a location designated by the Commission.

B. A manufacturer seeking Commission approval for a modification to a Commission-approved version of an electronic gaming device, including a change in theme, shall submit the modification to a location designated by the Commission.

C. At the conclusion of testing of a prototype or modification to an electronic gaming device, the testing entity shall issue to the Commission a certification report in an:

- (1) Electronic form; and
- (2) Format acceptable to the Commission.

D. Trial Period.

(1) Upon receipt of a certification report from a testing entity, but prior to a decision to approve a prototype or modification to an electronic gaming device, the Commission may require a trial period.

(2) A trial period shall be of a scope and duration the Commission deems appropriate to assess the operation of the electronic gaming device in a live environment.

(3) A trial period shall be subject to compliance by the manufacturer or distributor and the facility with specific terms and conditions required by the Commission.

(4) The Commission may order termination of the trial period at any time upon a determination by the Commission that:

- (a) A manufacturer, distributor, or facility has not complied with the terms and conditions required by the Commission; or
- (b) The electronic gaming device is not performing as expected.

E. Upon receipt of a certification report from a testing entity, the Commission may:

- (1) Approve the prototype or modification, with or without specific conditions;
- (2) Reject the prototype or modification;
- (3) Require additional testing; or
- (4) Require a trial period under §D of this regulation.

F. Commission approval of a prototype or modification of an electronic gaming device does not constitute a guarantee of its safety or reliability.

.03 Related Documentation.

Upon request, a manufacturer or distributor shall deliver to the Commission:

- A. Technical and operator manuals;
- B. Pay table information; or
- C. A file, in a form satisfactory to the Commission, describing the electronic gaming device, including:

- (1) Manufacturer/Distributor:
 - (a) Serial number;
 - (b) Model number;
 - (c) Software identification number; and
 - (d) Version number;
- (2) Denomination or a designation as multi-denomination;
- (3) Cabinet style; and
- (4) Other information required by the Commission.

.04 Emergency Modification of Equipment, System, or Software.

A. Notwithstanding the requirements of Regulations .01 and .02 of this chapter, the Commission may, on submission of a written request by a manufacturer or distributor, authorize installation of a modification to equipment, system, or software required to be tested, certified, and approved by the Commission under Regulation .01 of this chapter, on an emergency basis.

B. A written request submitted by a manufacturer or distributor to the Commission shall document the:

- (1) Equipment, system, or software proposed for emergency modification including:
 - (a) Software identification number; and
 - (b) Version number;
- (2) Facility;
- (3) Reason for the emergency modification; and
- (4) Proposed date and time of installation.

C. A manufacturer or distributor may not install an emergency modification without the written approval of the Commission.

D. No more than 15 days following receipt of Commission authorization on an emergency modification, a manufacturer or distributor shall submit a modification identical to that receiving emergency authorization for testing, certification, and approval under this chapter.

.05 Notice of Known or Suspected Defect.

A. A manufacturer, distributor, or facility shall immediately notify the Commission of any known or suspected defect or malfunction in equipment, system, or software required to be tested, certified, and approved by the Commission.

B. A manufacturer or distributor shall:

- (1) Confirm in writing any notice given to the Commission verbally, pursuant to §A of this regulation; and
- (2) If required by the Commission, notify an electronic gaming device facility licensee of any known or suspected defect or malfunction in equipment, system, or software installed in its facility.

C. A facility shall immediately notify the Commission of any known or suspected defect or malfunction in equipment, system, or software required to be tested, certified, and approved by the Commission.

D. A facility shall confirm in writing any notice given to the Commission verbally, pursuant to §C of this regulation.

.06 Revocation.

A. The Commission may, at any time, revoke an approval granted under this chapter to equipment, system, or software on a determination by the Commission that the equipment, system, or software does not comply with the technical standards specified by the Commission pertaining to the equipment, system, or software, as amended or clarified.

B. The Commission may, at any time, impose additional conditions on the operation or placement of Commission- approved equipment, systems, or software.

36.06.06 Electronic Gaming Device Enforcement

Authority: Criminal Law Article, §12-301.1 and §12-113; State Government Article, §9-110; Annotated Code of Maryland

.01 Enforcement.

A. A decision by the Commission shall be the final determination as to whether a gaming device being operated in the State is:

(1) A legal gaming device or device consistent with the provisions of this subtitle; and

(2) Being operated in a lawful manner.

B. If a local law enforcement unit fails to promptly enforce a final determination made under §A of this regulation, the Commission shall refer the matter to the Department of State Police for enforcement of the law.

C. Notwithstanding §B of this regulation, if a local law enforcement agency refuses to enforce a provision regarding the legal operation of amusement games operated in Baltimore City or Baltimore County, the Commission shall refer the matter to the appropriate office of the State's Attorney.

GINA M. SMITH
Acting Director

Subtitle 08 SKILLS-BASED AMUSEMENT DEVICES

Notice of Proposed Action

[15-189-P]

The Maryland Lottery and Gaming Control Agency proposes to adopt under a new subtitle, **Subtitle 08 Skills-Based Amusement Devices**:

(1) New Regulations .01 and .02 under a new chapter, **COMAR 36.08.01 General**;

(2) New Regulation .01 under a new chapter, **COMAR 36.08.02 Registration**; and

(3) New Regulation .01 under a new chapter, **COMAR 36.08.03 General Standards**.

This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on May 28, 2015, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to add new regulations to incorporate provisions that better define and refine the requirements for skills-based amusement devices.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to James B. Butler, Director of Legislative and Policy Affairs, Maryland Lottery and Gaming Control Agency, 1800 Washington Blvd., Suite 330, Baltimore, MD 21230, or call (410) 230-8781, or email to jbutler@maryland.gov, or fax to (410) 230-8727. Comments will be accepted through August 10, 2015. A public meeting on these regulations will be held on Wednesday, July 22, 2015, at 10 a.m., at the Maryland Lottery and Gaming Control Agency Headquarters, 1800 Washington Boulevard, Suite 330, Baltimore, MD 21230. Please contact James B. Butler, Director of Legislative and Policy Affairs, if additional information is needed or if you require an accommodation in order to participate in the meeting.

36.08.01 General

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

.01 Scope.

This subtitle applies to skills-based amusement devices regulated by the Commission under Criminal Law Article, §12-301, Annotated Code of Maryland.

.02 Definitions.

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

B. Terms Defined.

(1) Merchandiser Device.

(a) "Merchandiser device" means a skills-based amusement device by which:

(i) A player controls a mechanical or electromechanical claw or other device to retrieve noncash merchandise or prizes of minimal value; and

(ii) Every noncash merchandise or prize within the device shall be retrievable during each play.

(b) "Merchandiser device" does not include a feature that provides for the random or predetermined variability of the level of skill required for a successful outcome.

(2) "Minimal value" means having a wholesale value of not more than \$30 unless approved by the Commission under COMAR 36.08.02.

(3) "Redemption device" means a skills-based amusement device that only issues tickets, tokens, or other objects that represent or that can be converted into noncash merchandise or prizes:

(a) At the location where the redemption device is located or an affiliated franchise location;

(b) Where the wholesale value per ticket, token, or other object may not exceed 50 cents;

(c) Where the cumulative award per play may not exceed minimal value;

(d) Where tickets, tokens, or other objects may be accumulated and converted into noncash merchandise or prizes; and

(e) Where the tickets, tokens, or other object or noncash merchandise or prizes may not be readily converted into cash.

(4) "Return" means the ratio of prizes won to the amount played.

(5) "Skill" means the ability to alter the return by not less than 75 percent in favor of the player over a completely random outcome.

(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 element of skill awards the user:

(i) Noncash merchandise or prizes of minimal value;

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

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

(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.

GINA M. SMITH
Acting Director

36.08.02 Registration

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

.01 Registration.

A. The Commission shall maintain a register of each location that offers skills-based amusement devices that award noncash prizes with a wholesale value in excess of \$30.

B. A person who operates a skills-based amusement device shall register annually with the Commission if the device awards noncash prizes with a wholesale value in excess of \$30 and is:

(1) A redemption device;

(2) A merchandiser device; or

(3) Another type of skills-based amusement device.

C. A person required to register shall provide in a manner specified by the Commission:

(1) The name of person operating 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 of whether the device is:

(a) A redemption device;

(b) A merchandiser device; or

(c) Another type of skills-based amusement device;

(4) A written explanation as to how the device awards prizes that includes:

(a) A description of how the game operates;

(b) The maximum noncash merchandise or prize wholesale value offered; and

(c) Technical and operator manuals; and

(5) Any additional information required by the Commission.

D. Upon review of a request submitted under §C of this regulation, the Commission may:

(1) Require testing of a device under COMAR 36.08.03; and

(2) Either:

(a) Approve of the request and list the maximum wholesale prize value in the registration certificate issued under §E of this regulation; or

(b) Deny the request.

E. A decision of the Commission to deny a request under §D(3) of this regulation is final and not appealable.

F. For each location registered under this chapter, the Commission shall:

(1) Assign a skills-based amusement device location registration number; and

(2) Issue a registration certificate.

G. A person required to register under this chapter shall display to the public the Commission-issued registration certificate at the location where the devices are operated.

36.08.03 General Standards

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

.01 Testing.

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

(1) Overall operational integrity;

(2) Compliance with this subtitle; and