



## Maryland Amusement and Music Operators Association

June 18, 2014

James B. Butler  
Director, Legislative and Policy Affairs  
Maryland Lottery and Gaming Control Agency,  
1800 Washington Blvd., Suite 330  
Baltimore, MD 21230

Via email: [jbutler@maryland.gov](mailto:jbutler@maryland.gov)

In re: Proposed regulations, Title 36, Subtitle 06.01 and 06.02

Dear Mr. Butler:

Please find below MAMOA's comments on the proposed regulations mentioned above. We will also be attending the hearing on June 27<sup>th</sup>.

Yours truly,

Larry Bershtein  
President

**Maryland Amusement and Music Operators Association**  
**Comments on Proposed Regulations**  
**Title 36, Subtitles 06.01 and 06.02**

The regulations for Electronic Gaming Devices, Title 36, Subtitle 06.01 and 06.02, should not be enacted as written. The regulations are confusing, in places internally contradictory, unduly burdensome to an already troubled industry, and not at all in line with the legislative intent of the enabling legislation.

Below you will find detailed descriptions and explanations of our concerns and objections. The overview focuses on two overarching issues:

1. Legislative intent vs. the regulations as drafted, and
2. Statutory overreach

Senator Edward Kasemeyer, Chairman of the Senate Budget and Taxation Committee, and Delegate Sheila Hixson, Chairman of the House Ways and Means Committee went into detail regarding the legislative intent in a letter to the Commission dated February 26, 2014.

All issues regarding statutory authority reference Criminal Law Article, § 12-301 of the Annotated Code of Maryland.

Copies of both of the above referenced documents are included.

Following the overview and MAMOA's recommendations will be a detailed review of the regulations with specific comments and questions.

## OVERVIEW

### ***Legislative Intent vs. the Regulations as Drafted***

#### **Legislative Intent:**

“It is important for the Commission to have oversight over legal amusement devices and the accompanying authority to rule that a device . . . is . . . an illegal gaming device.”

“. . . the General Assembly did not intend that traditional amusement device owners would be unduly burdened . . .”

“. . . the suggested changes clarifying which machines are not subject to device approval will reduce the workload of the Commission . . .”

#### **Regulations:**

- Regulate amusement devices as electronic gaming devices
- Require registration of every amusement operator in the state
- Require registration of every “skills-based amusement device” in the state
- Require reporting every move of “skills-based amusement devices”

Requiring every operator, including those operating only per se legal machines, to register with the Agency, then requiring that every machine be registered, is clearly at odds with the legislative intent. Some of the state’s operators are one-man operations, and the operators already have their hands full with meeting the various existing licensing and taxing regulations. Furthermore, it is clear that there was no intent to license every operator and machine, or the suggested reduction in the Commission’s workload would not make sense.

It should also be pointed out that if the Commission tries to regulate and monitor every operator and every skills-based amusement device in the state, the costs would be dramatic. Look at what it takes to oversee four casinos, then think about the thousands of locations, arcades, malls, family entertainment centers, bowling alleys, children and family oriented restaurants which have machines. These regulations would require the Commission to oversee each and every one of the games in every one of these locations.

Then there are the unintended consequences.

While the General Assembly wants to impact the industry as little as possible, including amusement games as electronic gaming devices, see §36.02.01, “An electronic gaming device is lawful if it is . . . [a] skills-based amusement device that is operated in compliance with this Subtitle”, would put Maryland’s amusement games under the federal laws governing gaming. It’s not hard to believe that an arcade on Ocean City’s Boardwalk would be negatively impacted if it barred all under 21 year olds from entering, as the federal regulations require.

## **Summary: Legislative Intent vs. the Regulations as Drafted**

Clearly there is a wide gap between what the General Assembly intended and the consequences, intended and unintended, of the regulations drafted by the Commission. Furthermore, as detailed below, MAMOA believes the Commission has vastly overstepped its statutory authority time and time again throughout the regulations.

### ***Statutory Authority***

All of the regulations regarding skills-based amusement devices derive their statutory authority from the following:

§ 12-301.

(3) "slot machine" does not include a machine, apparatus, or device that:

(i) awards the user only free additional games or plays;

(ii) awards the user only noncash merchandise or noncash prizes of minimal value;

(vii) is a skills-based amusement device that awards prizes of minimal value approved by the State Lottery and Gaming Control Commission through regulation.

The words, "approved by the State Lottery and Gaming Control Commission through regulation" were added in SB 0864 (2012). No other part of the code references amusement-only devices of any sort, including the portions defining the regulation of electronic gaming devices.

From those several words, the Commission now believes they have the authority to license every operator of skills-based amusement devices and every skills-based amusement device, including those the General Assembly specifies as per se legal and not requiring regulation by noting the reduction in workload from "clarifying which devices are not subject to device approval".

These regulations far exceed the intent of the legislation, as noted above, and certainly do not appear to have a substantive basis in Maryland's code.

### ***Summary and Recommendations***

MAMOA believes the best path to regulations that meet the intent and concerns of the State requires:

- The complete rejection of the drafted regulations.
- The separation of electronic gaming devices and skills-based amusement devices.
- The input of the Amusement Advisory Committee in the drafting of new regulations.

- That no requirements of any sort be placed upon the operators and their machines that are per se legal.

MAMOA, as always, is also ready to assist in any way possible.

**Detailed Analysis: Title 36 State Lottery and Gaming Control Agency, Subtitle 06 – Electronic Gaming Devices**

**From the Maryland Register, June 13, 2014:**

**Subtitle 06 ELECTRONIC GAMING DEVICES**

[14-174-P]

The Maryland Lottery and Gaming Control Agency proposes to adopt:

- (1) New Regulations **.01—.03** under **COMAR 36.06.01 General**;
- (2) New Regulations **.01** and **.02** under **COMAR 36.06.02 Lawful and Unlawful Electronic Gaming Devices**;
- (3) New Regulations **.01—.09** under **COMAR 36.06.03 Application, Licensing and Registration**;
- (4) New Regulations **.01—.04** under **COMAR 36.06.04 Electronic Gaming Device General Standards**;
- (5) New Regulations **.01—.06** under **COMAR 36.06.05 Electronic Gaming Device Technical Standards**; and
- (6) New Regulation **.01** under **COMAR 36.06.06 Electronic Gaming Device Enforcement**.

This action was considered at the Maryland State Lottery and Gaming Control Commission’s open meeting held on April 21, 2014, notice of which was given pursuant to State Government Article, §10-506(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*.

**Emphasis added.**

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MAMOA Comment: ELECTRONIC GAMING DEVICES – not skills-based games or anything else.

The General Assembly made it clear “that (1) machines which only dispense free plays or tickets of nominal value for prize redemption purposes are **legal amusement devices**; and (2) that traditional claw machines that dispense merchandise with a wholesale value of \$30 or less be treated as legal per se as well.”

This is the wrong place to present regulations for amusement devices; they are NOT electronic gaming devices. Furthermore, as per se legal devices, there is no need for new regulations. The letter from the General Assembly makes it clear these are not the machines requiring an entire new layer of registration, regulation and licensing.

And then there is the question: what is a legal electronic gaming device in Maryland? For whom and in reference to what were these regulations drafted? If it is not a slot machine, bingo machine or instant ticket lottery machine, all of which have their own definitions, what is left?

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**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.

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MAMOA Comment: MAMOA strongly disagrees with the above. The economic impact, especially on small businesses without the manpower to handle additional registration and licensing burdens, will be devastating. And that is before the fees kick in in subsequent years.

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Chapter 01 General Authority: State Government Article, § 9-110 and Criminal Law Article §§ 12-301 and 12-301.1, 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.

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MAMOA Comment: Note that §12-301, with the exception of the line added by SB864, ONLY addresses slot machines; §12-308 applies to bingo:

§ 12-301. "Slot machine" defined

In this subtitle:

**(3) "slot machine" does not include a machine, apparatus, or device that:**

- (i) awards the user only free additional games or plays;
- (ii) awards the user only noncash merchandise or noncash prizes of minimal value;

**(vii) is a skills-based amusement device that awards prizes of minimal value approved by the State Lottery and Gaming Control Commission through regulation.**

**Emphasis added**

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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 Subtitle 07 of this Title; or

(5) Paper tip jar gaming where authorized.

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MAMOA Comment: Scope – no mention of skills-based amusement devices. This would make sense, since skills-based amusement devices are NOT electronic gaming devices. But the question remains: what are legal electronic gaming devices?

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**.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 devices that is registered with the Commission and:

(i) Awards only free play;

(ii) Is a redemption device; or

(iii) A merchandiser device that dispenses noncash merchandise or prizes having a wholesale value of not more than \$30.



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MAMOA Comment: First, if a skills-based amusement device is not an electronic gaming device, then these regulations cannot apply given the stated scope as well as the underlying statutory authority.

Where does the authority to say a skills-based amusement device is not an electronic gaming device **if and only if** it is registered with the Lottery come from? §12-301 (3) (vii) says:

**(vii) is a skills-based amusement device that awards prizes of minimal value approved by the State Lottery and Gaming Control Commission through regulation.**

Expanding the statutory authority to “regulate” skills-based amusement devices that award prizes to encompass the registration of ALL skills-based amusement devices and all operators is an extreme overreach not supported by the law. Also see the “definition” of skills-based amusement device below.

And what if a skills-based amusement device doesn’t award free play? Say you only get to play a game, like Golden Tee, does that make it an electronic gaming device unless it is registered with the Commission? Of course not. Or at least it should not. And are the regulations saying every amusement device is an electronic gaming device unless it awards free play or prizes and is registered with the Commission?

And finally, why/how do they slip this in under definitions? Requiring registration is a regulatory issue, not a defining issue.

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

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MAMOA Comment: Emphasis added. So any location with no electronic gaming devices should ever have to register.

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(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, controls, operates, or manages an electronic gaming device at a facility.

(5) “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;

(ii) Every noncash merchandise or prize within the device must be retrievable during each play; and

(b) A Merchandiser device shall not include a feature that allows for adjustment of the percentage of successful outcomes or level of skill required for a successful outcome.

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MAMOA Comment: Why can the level of skill not be adjusted? Why can't I set the level of skill for a game in a bar meant for adults at a different level than the same game in a children's venue?

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(6) “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;

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

(c) Where the cumulative award per play shall not exceed a wholesale value of \$30;

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MAMOA Comment: How do you have a cumulative award on a per play basis? What does this mean?

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(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 nor noncash merchandise or prizes may be readily converted into cash.

(7) "Return" means the ratio of prizes won to the amount wagered.

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

(9) "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 not whose wholesale value may not to exceed \$30 unless approved by the Commission;

(ii) A ticket, token, or other object that represents or that can be converted into noncash merchandise or prizes whose wholesale value may not exceed \$30 unless approved by the Commission; or

(iii) The right to receive an item specified in (i) or (ii) above.

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MAMOA Comment: This again tries to regulate through definitions. If you define something within a narrow enough range, you hardly need to add regulations. Furthermore, this is not the definition of a skills-based amusement device. Not all skills-based amusement devices award prizes and/or free play.

So, do these regulations only apply to machines that award prizes and/or free play, even though this conflicts with the "plain language" meaning of the words? And again, where is the statutory authority over skills-based games in general and games that award free play specifically? A look at §12-301 (3) specifically **excludes** games that only award free play (from the definition of slot machines), and therefore should not be regulated by the Commission.

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**.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 state license.

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.

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MAMOA Comment: So this only applies to electronic gaming devices, and skills-based amusement devices are not electronic gaming devices, right? Or are they? So does the Lottery intend to also register operators and machines even if the machines are already licensed by the county or jurisdiction? Clearly these additional requirements are unduly burdensome, particularly when applied to machines not under the statutory authority of the Commission.

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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 they are located in.

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MAMOA Comment: What does this mean and why is it here? Does this imply a double layer of administrative requirements specifically for operators in Baltimore City and County? Doubling the paperwork and increasing costs will have a negative impact on our industry. Furthermore, current law § 12-301.1.3 only refers to enforcement actions.

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**Title 36 STATE LOTTERY AND GAMING CONTROL AGENCY**

**Subtitle 06 ELECTRONIC GAMING DEVICES**

**Chapter 02 Lawful and Unlawful Electronic Gaming Devices**

Authority: State Government Article, § 9-110 and Criminal Law Article §§ 12-301 and 12301.1, 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 Subtitle 07 of this Title;

D. A skills-based amusement device that is operated in compliance with this Subtitle;

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MAMOA Comment: "An electronic gaming device is lawful if it is [a] skills-based amusement device that is operated in compliance with this Subtitle;"

How can a skills-based amusement device be both an electronic gaming device and not an electronic gaming device as specified in 36.06.01.02 B(b)? It can't be both. Given the inherent contradiction here, how are we supposed to know what applies to us and what does not?

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E. 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 F.

F. 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.

**Title 36 STATE LOTTERY AND GAMING CONTROL AGENCY**

**Subtitle 06**

**ELECTRONIC GAMING DEVICES**

**Chapter 03 § Application and, Licensing and Registration**

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

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MAMOA Comment: Who has to register, who has to be licensed? Amusement game operators? Is so, why? And under what authority? There is NO mention of amusement games in §§ 12-301 and 12-301.1. Furthermore, I do not believe you can make a skills-based amusement game a gaming machine by writing a definition that says so, especially while also writing a definition of an electronic gaming device that excludes skills-based amusement devices.

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**.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 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 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 the 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 .01 B of this chapter shall include the information under §B of this regulation, for an individual who is:

- (1) The applicant; or
- (2) Key management.

B. An individual listed under §A of this regulation shall furnish the following:

- (1) Full name and any previous names or aliases;
- (2) Date of birth;
- (3) Home and business 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, non-substantive 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.

(1) Unless facility holds a valid electronic gaming device facility license issued by the Commission, a facility and key management may not operate electronic gaming devices.



(2) The following persons must meet the Commission's electronic gaming device facility license requirements:

- (a) A facility; and
- (b) Key management.

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. :

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MAMOA Comment: So does the \$50 fee apply to skills-based amusement devices? Does the definition in 36.06.02 (1) (b), where it says ““Electronic gaming device” does not include a skills-based amusement device . . .” exempt all of our locations? Or do we go by 36.06.02.01 D where it says “An electronic gaming device is lawful if it is . . . [a] skills-based amusement device that is operated in compliance with this Subtitle;” which clearly implies a skills-based amusement device is an electronic gaming device?

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C. The electronic gaming device facility license issued by the Commission shall specify the maximum number of electronic gaming devices that may be operated by the facility operator 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 applies for renewal; and

- (a) Continues to comply with all licensing requirements; and
- (b) 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 must 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 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 applies for renewal; and

(a) Continues to comply with all licensing requirements; and

(b) 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.

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MAMOA Comment: These actions may seem reasonable for someone in the gaming industry, but they would mean the end of most small amusement operators. They do not have the time and sophistication to handle this on their own, and they do not have the money to pay an attorney to do it for them. Again, skills-based amusement devices should not be treated as electronic gaming devices; these are two different worlds.

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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;

- (1) Providing the Commission with false or misleading information;
- (2) Failing to cooperate with the Commission;
- (3) Failing to remit, or failing to make timely remittance of, funds owed to the Commission;
- (4) Failing to prepare, submit, or implement an adequate corrective action plan under Regulation .05 C of this Chapter;
- (5) Incurring criminal charges related to the conduct of illegal gaming;
- (6) Possessing materials or equipment indicating involvement by the licensee or the licensee's employees in the conduct of illegal gaming; or
- (7) 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), 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.

#### **.09 Registration.**

A. An individual or entity who operates a skills-based amusement device shall register with the Commission if the device:

(1) Awards only free play;

\*\*\*\*\*

MAMOA Comment: WHY? Machines that award only free play are not covered by statute. Furthermore, this definition includes machines that are per se legal. Why should I have to register with the Lottery if the only machines I operate are:

- per se legal
- and/or offer only skills-based play with no award of anything
- and/or are skills-based amusement devices offering only free play?
- and/or are skills-based devices offering only prizes valued under \$30

Where is this authorized by statute?

Why should this be required of EVERY operator?

This is unnecessary and clearly overly burdensome.

\*\*\*\*\*

(2) Is a redemption device; or

(3) A merchandiser device that dispenses noncash merchandise or prizes having a wholesale value of not more than \$30.

B. An individual or entity required to register shall provide in a manner specified by the Commission:

(1) Name of individual or entity operating the device;

(2) Address of the location where the device is operated;

(3) A description of each device with an indication whether the device:

(a) Awards only free play;

(b) Is a redemption device; or

(c) A merchandiser device that dispenses noncash merchandise or prizes having a wholesale value of not more than \$30; and

(5) Any additional information as required by the Commission.

C. An individual or entity required to register shall affix a Commission registration tag provided under Chapter 04 of this Subtitle to each device described under §B(3) of this Regulation.

\*\*\*\*\*

MAMOA Comment: Again, why? If I only operate machines that are per se legal, what is the reasoning behind me having to register and also register my machines? And, are we operating under the assumption that skills-based amusement devices are



defined by the plain language meaning, or by the definition that they must either award free play or have some award of value?

\*\*\*\*\*

**Title 36 STATE LOTTERY AND GAMING CONTROL AGENCY**

**Subtitle 06**

**ELECTRONIC GAMING DEVICES**

**Chapter 04 Electronic Gaming Device General Standards**

Authority: State Government Article, § 9-110 and Criminal Law Article §§ 12-301 and 12-301.1, 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 or entity required to register under this Subtitle shall submit written notice on a quarterly basis to the Commission indicating transportation of an electronic gaming device or skills-based amusement device.

\*\*\*\*\*

MAMOA Comment: NOTE: This says on a quarterly basis. Now see below.

\*\*\*\*\*

B. For each electronic gaming device or skills-based amusement device to be transported, a licensee or entity required to register under this Subtitle a person proposing to transport the device 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 electronic gaming device to be transported
- (5) The device certification or registration control number; and
- (6) Any other information requested by the Commission.

C. A licensee or entity required to register 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.

\*\*\*\*\*

MAMOA Comment: Now it says “promptly submit . . . notice of any changes to the information already submitted as required under § B . . .” So which is it? This seems to mean that in addition to the quarterly report, an additional report will be required every time a machine is moved.

\*\*\*\*\*

.03 Register.

A. The Commission shall maintain a register of each electronic gaming device and skills-based amusement device placed in operation in the State.

\*\*\*\*\*

MAMOA Comment: WHY? Under what statutory authority? And will this supersede all county licensing, noting that today a number of counties do not even require registration? Or will it only supersede previous licensing requirements after the Agency gets around to reviewing all the many jurisdictions in the state? If so, what do we do now?

If this is an additional layer of regulation for mostly per se legal machines, is this not contradictory to the legislative intent?

\*\*\*\*\*

B. For each electronic gaming device and skills-based amusement device placed into operation, the Commission shall:

- (1) Assign a device certification or registration control number; and
- (2) Assign a certification or registration tag that shall be affixed to the device.

C. If an electronic gaming device or skills-based amusement device is transported outside of a facility, a licensee or entity required to register under this Subtitle shall:

- (1) Remove the certification or registration tag; and
- (2) Submit the certification or registration tag to the Commission with the written notice required under Regulation .02 of this Chapter.

\*\*\*\*\*

MAMOA Comment: This might make sense for a slot machine, but makes no sense for a claw machine filled with stuffed animals. This is overly broad and unduly burdensome as it adds an entire layer of paperwork on top of existing regulations. And again, what does this apply to? Machines the General Assembly considers per se legal PLUS redemption machines?

\*\*\*\*\*

**.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.

**.05 Request for Approval.**

A. Requests.

(1) Only a licensee may request approval to operate a skills-based amusement device that pays out noncash merchandise or prizes in excess of \$30.

(2) Documents submitted by a licensee to the Commission under this regulation shall consist of an original and shall be in the format required by Commission.

B. Submission Requirements.

(1) The documents submitted under §A of this regulation shall include:

(a) A written explanation as to how the device is a skills-based amusement device that awards prizes of minimal value that includes;

\*\*\*\*\*

MAMOA Comment: So we still do not have the definition of “minimal”. This looks more like a Catch 22 than a regulation.

\*\*\*\*\*

(i) A description of how the game operates;

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

(b) Testing results as required under Chapter 5 of this subtitle;

(c) Technical and operator manuals; and

(d) Other information required by the Commission.

(2) A licensee seeking Commission approval under this regulation shall submit a prototype of the skills-based amusement device to a location designated by the Commission for evaluation.

\*\*\*\*\*

MAMOA Comment: Is there a reason this says “prototype”? What if I want to load a Toy Soldier crane with \$40 wholesale cost watches. This is a machine that has been

in the market for years and there is no way to supply a “prototype”. If not corrected, only new games will ever be able to be “approved” and then only by the manufacturer, since by definition once a machine is in the supply chain you’re well past the prototype stage. And does this apply to every individual machine, or one each type? This is too broad to even know what the requirements truly are and why they are being used, while also being intimidating enough to effectively eliminate many machines from Maryland entirely.

\*\*\*\*\*

C. Request Review.

(1) Upon receipt of a request from a licensee for payout of noncash merchandise or prizes in excess of \$30 by the Commission, the Director or Director’s designee shall review the request to determine whether it contains all the information required under this regulation.

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

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

(4) A licensee 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 considered by the Director. D. Director Approval. The Director may approve of the request submitted under this regulation after determining that:

(1) The licensee has met the submission requirements under §B of this regulation;

(2) The licensee complies with the regulations of this Title; and

(3) The skills-based amusement device awards noncash merchandise or prizes of minimal value.

\*\*\*\*\*

MAMOA Comment: Again, no definition of “minimal”. Is it even over \$30? Is it over \$500? Who would anyone go through this process when the standards are so broad and so arbitrary as to make approval completely unpredictable?

\*\*\*\*\*

E. Denial of Request.

(1) After reviewing the request submitted under this regulation, the Director may deny the request.

(2) If the Director denies the request, the Director shall promptly provide written notice to the licensee of the:

- (a) Denial;
- (b) Basis for the denial; and
- (c) Licensee's right to request a hearing by the Commission on the Director's denial.

(3) A licensee may submit a hearing request to the Commission within 15 days of the date of the notice provided by the Director under §E(2) of this regulation.

(4) If a licensee fails to timely submit a hearing request under §E(3), the Director's denial shall be in effect.

(5) A hearing request that complies with §E(3) shall be the subject of a hearing before the Commission, after which the Commission shall:

(a) Determine that the licensee's request meets the requirements provided under §D of this regulation and approve of the request; or

(b) Determine that the licensee's request does not meet the requirements provided under §D of this regulation; and

(i) Deny the request; and

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

(6) The Commission's decision is final.

\*\*\*\*\*

MAMOA Comment: There really is no due process here. Who would bother with a hearing when all the standards are determined by the whim of the Director with no written guidelines?

\*\*\*\*\*

F. 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.

**Title 36 STATE LOTTERY AND GAMING CONTROL AGENCY**

**Subtitle 06**

**ELECTRONIC GAMING DEVICES**

**Chapter 05 Electronic Gaming Device Technical Standards**

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

\*\*\*\*\*

MAMOA Comment: Almost everywhere else skills-based amusement devices are specifically sited along with electronic gaming devices. So are we to “assume” Chapters 5 does not apply to amusement operators? If Chapter 5 does not apply, why would any of the other chapters? See Scope and definitions.

\*\*\*\*\*

**.01 Testing, Certification and Approval of Equipment, a System 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 facility operator 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, alteration or tampering with an electronic gaming device may result in the immediate suspension of a facility 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, a 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 operator 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 operator 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 by an independent certified testing laboratory 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. 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.

(1) 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.

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

(3) 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 operator 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 an independent certified 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.**

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

(1) Technical and operator manuals;

(2) Pay table information;

(3) A file, in a form satisfactory to the Commission, describing the electronic gaming device, including:

(a) Manufacturer/Distributor's:

(i) Serial number;

(ii) Model number;

(iii) Software identification number; and

(iv) Version number;

(b) Denomination or a designation as multi-denomination;



- (c) Cabinet style; and
- (d) Other information required by the Commission.

**.04 Emergency Modification of Equipment, a 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, a 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 operator 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 facility operator of any known or suspected defect or malfunction in equipment, a system or software installed in its facility.

C. A facility operator 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 operator 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, a 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.

**Title 36 STATE LOTTERY AND GAMING CONTROL AGENCY**

**Subtitle 06**

**ELECTRONIC GAMING DEVICES**

**Chapter 06 Electronic Gaming Device Enforcement**

Authority: State Government Article, § 9-110 and Criminal Law Article §12-301.1 and §12-113, 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.

\*\*\*\*\*

MAMOA Comment: Note – this applies only to gaming devices? Or as a “device consistent with the provisions of this subtitle” mean skills-based amusement devices are included?

\*\*\*\*\*

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

C. Notwithstanding §B of this section, 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.

\*\*\*\*\*

**MAMOA SUMMARY**

What a mess. What applies or does not apply is seldom clear. The scope of the above regulations excludes everything but electronic gaming devices, yet skills-based amusement devices are included.

Are skills-based amusement games a subset of electronic gaming devices or are they completely different?

If they are considered by the MLGCA as a subset, does the Johnson Act apply to all of our machines? Will people have to be 21 or older to play a toy crane?

What happened to the “not unduly burden” and “per se legal” words from the General Assembly?

Amusement games must be separated from electronic gaming devices to achieve regulations that make sense. Furthermore, I believe that to meet the legislative intent of not unduly burdening the industry all machines that award nothing or only free plays, as well as toy cranes/redemption machines awarding prizes under \$30 should be carved out completely.