

State of Delaware

Video Lottery Advisory Council

November 3, 2017

Rick Geisenberger
Secretary of Finance
State of Delaware
Carvel State Office Building
820 N. French Street
8th Floor
Wilmington, DE 19801

Dear Secretary Geisenberger,

In accordance with Title 29, Chapter 29, Paragraph 4824 of the Delaware Code, attached is the 2017 Report of the Video Lottery Advisory Council (VLAC). The recommendations in this report were voted on and approved of by a majority of members of the VLAC at our October 17, 2017 meeting.

As a supplement to this report, please find a letter of support from representatives of the State's horse racing industry (Delaware Standardbred Owners Association and Delaware Thoroughbred Horseman's Association) for the recommendations included in this year's report.

Members of the Video Lottery Advisory Council are appreciative of the action that has been taken in the past as a result of recommendations made via the annual Report. I, as well as the other Delaware video lottery agent representatives who serve on the VLAC, look forward to discussing the recommendations in the attached report.

Sincerely,



Edward J. Sutor
Chairman
Attachment

State of Delaware

Video Lottery Advisory Council

2017 Report

November 5, 2017

State of Delaware

**Video Lottery Advisory Council
2017 Report**

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What is the competitive outlook for Delaware gaming?

The Delaware gaming industry is in a fully saturated market with more regional competition expected in the next few years. The added gaming competition in recent years has had a significant negative impact on Delaware's gaming revenues, compounded by the fact that Delaware's effective gaming tax rates are not competitive with nearby states. Additionally, Pennsylvania just passed and Governor Wolf signed an expansion of gaming to include up to 10 satellite casinos, truck stop gaming, internet gaming and sports wagering should the Supreme Court overrule PASPA.

Delaware casinos' effective slot tax rate is among the highest in the entire nation; while Delaware casinos' effective table game tax rate is the highest in the entire nation. In order to remain viable, Delaware casinos need relief by way of restructuring the current model for the sharing of gaming revenues.

What are the 2017 recommendations of the VLAC?

Due to the current state of the Delaware gaming industry and the intensifying competitive landscape, the following recommendations include major structural changes to the current revenue sharing and license fee model. Similar recommendations were also included in the 2014, 2015, and 2016 VLAC Reports to the State.

Legislative Recommendations

- **Recommendation #1: Modify the table game revenue share model to be competitive with neighboring states – Adjust the table game revenue sharing rate to 15% for the State's share and eliminate the annual license fee.**
 - *Justification: Delaware has the highest table game tax rate in the country. Maryland's rate is 20%, Pennsylvania's rate is 14%, and New Jersey's is 8%. With annual license fees, Delaware's effective revenue share rate on table games is over 35%, and combined with the overhead required in terms of payroll costs makes table games operations unprofitable for the State's 3 casinos. The Lottery and Gaming Study Commission included this recommendation in its report to the Administration and it was included in, and then removed from, Senate Bill 220 in 2014. It was also included in Senate Bill 30, introduced to the legislature in 2015, and SB 183 in 2016 which failed to reach the Senate floor for consideration.*

- **Recommendation #2: Modify the slot revenue share model - Reinstate the original tiered slot gaming tax structure established in 1994.**
 - *Justification: When slot operations began in Delaware, this was the way the revenue share structure was set up. As revenues increased, the State's share percentage increased; and conversely, if revenues decreased, the State's share percentage would also decrease. The switch to a fixed rate*

of 43.5% (after 6 prior increases) at a time when competition in the region was gaining momentum has created an unsustainable revenue share model that leaves the casino operators unprofitable and without the needed resources to properly staff, to market, and to reinvest in their facilities.

- **Recommendation #3: Implement a revenue share credit of 5% to the casinos to encourage capital expenditures**
 - *Justification: This recommendation was included in the preliminary Lottery and Gaming Study Commission's report to the Administration in 2013. It was also included in Senate Bill 30 in 2015. Many of the gaming states in this region offer similar capital expenditure incentives: West Virginia gives a capital expenditure incentive to its casinos and New Jersey recently assisted Harrah's Atlantic City in their \$140 million convention center project. These types of capital expenditure incentives are used widely in the industry as a way for the state and the casinos to partner for the greater good of all parties.*

- **Recommendation #4: Implement a revenue share credit of 5% to the casinos to encourage marketing initiatives.**
 - *Justification: This recommendation was also included in the preliminary Lottery and Gaming Study Commission's report to the Administration in 2013. It was also included in Senate Bill 30 in 2015. Many of the gaming states in this region offer similar marketing incentives: West Virginia offers a subsidy to the casinos in the state for advertising and New York offers its casinos an advertising subsidy up to 8% of revenue. These types of marketing incentives are used widely in the industry as a way for the state and the casinos to partner for the greater good of all parties.*

- **Recommendation #5: Slot vendor fees, in their entirety, should be subtracted from slot revenues before the revenue share split with the casinos and State in the slot revenue sharing model.**
 - *Justification: Currently, the State shares in 75% of slot vendor fees. It is recommended that 100% of the slot vendor fees be shared by the State.*

What is the VLAC?

The Video Lottery Advisory Council (VLAC) (aka the Advisory Council on Video Lottery Planning) was formed under House Bill #269 on June 19, 2003 to serve in a planning and advisory capacity to the Secretary of Finance.

What is the purpose of the VLAC?

Per Title 29, Chapter 48 of the Delaware Code:

The purpose of the VLAC is to consider matters relating to the growth and competitive vitality of the video lottery industry in the State, including but not limited to the following:

- (1) The status of video lottery game development issues in the State;
- (2) The status of known game problem resolution;
- (3) Personnel issues and concerns affecting the industry;
- (4) The effectiveness of current operational procedures and recommendations for new operational procedures or regulations;
- (5) The competitive vitality of the video lottery industry in the state, and recommendations for marketing and technological improvements;
- (6) Issues and concerns relating to the repair and maintenance of video lottery machines and related equipment, including preventive maintenance programs;
- (7) Video lottery agent or manufacturer specific projects that will impact the operation of the video lottery; and
- (8) Issues and concerns of the State Lottery Office relating to the video lottery operations and the status of internal control approvals.

The VLAC shall submit a report on its activities to the Secretary of Finance by November 5 of each year, together with recommendations for legislative and/or administrative changes it deems desirable. (Emphasis added.)

What is the Mission Statement of the VLAC?

"To provide a forum for video lottery officials, agents, and vendors to routinely address and resolve issues related to maintaining and improving the utmost in program integrity and operational efficiency. The VLAC shall render an annual report to the State on the results of its efforts and include recommendations to improve the program's viability and to maximize the program's growth in an increasingly competitive regional market."

Who serves on the VLAC?

Per Title 29, Chapter 48 of the Delaware Code:

Membership on the VLAC consists of:

- Vernon Kirk, Director of the State Lottery Office (302-744-1600)

- Edward J. Sutor, Dover Downs Hotel & Casino (302-857-3206)
- Patti Key, Harrington Raceway (302-398-5913)
- Bill Fasy, Delaware Park (302-994-2521 ext. 2201)
- Kathy Wayne, Scientific Games (302-678-7730)
- Michael Ordille, IGT (609-484-6424)
- Michael Nickolich, Bally (702-532-8484)

The Governor shall designate one member to serve as Chairperson of the Council, who shall serve in that capacity for two years and shall be eligible for reappointment.

(Edward J. Sutor – President & CEO for Dover Downs Hotel & Casino – Term 2006-2007, reappointed 2008-2009, 2010-2011, 2012-2013, 2014-2015, 2016-2017).

How often does the VLAC meet?

Per Title 29, Chapter 48 of the Delaware Code:

The VLAC usually meets quarterly, and a meeting can be called by the Director, the Chairperson, or a majority of the members.

When & where did the VLAC meet in 2017?

VLAC meetings during 2017 were as follows:

<u>Date</u>	<u>Time</u>	<u>Place</u>
July 18, 2017	1:00 p.m.	Dover Downs Hotel & Casino
September 19, 2017	1:00 p.m.	Dover Downs Hotel & Casino
October 17, 2017	11:30 a.m.	Dover Downs Hotel & Casino
October 17, 2017	1:00 p.m.	Dover Downs Hotel & Casino

All of the VLAC meetings were open public meetings. Minutes of the VLAC meetings are available on the State of Delaware website.

November 1, 2017

Mr. Edward Sutor, Chairman
Video Lottery Advisory Council
Dover Downs
1131 N. DuPont Hwy.
Dover, DE 19901

RE: 2017 Video Lottery Advisory Council Report

Dear Mr. Sutor:

On behalf of the members of the Delaware Standardbred Owners' Association (DSOA) and the Delaware Thoroughbred Horsemen's Association (DTHA), please accept this letter in support of the recommendations set forth in the Video Lottery Advisory Council's 2017 report to the Secretary of Finance.

Representatives from the DSOA and DTHA have attended the VLAC meetings as members of the public and are aware of the status of the gaming industry in Delaware. Our organizations remain committed to supporting the health of the horse racing industry and providing high quality racing in Delaware. We recognize that in order to achieve these goals, our partners, the three race tracks, must remain competitive.

Unfortunately over the last few years, the level of gaming competition in the Mid-Atlantic region has expanded exponentially, and the high tax and fee burdens imposed by law on tracks in Delaware is placing our racing partners at a competitive disadvantage. The level of taxation and licensing fees should be brought in line with surrounding jurisdictions, allowing our tracks to remain relevant in this highly competitive market.

Implementing the five (5) recommendations in the report supports this goal. Therefore, we encourage the General Assembly to implement the narrowly tailored changes to the Horse Racing Redevelopment Act that are contained in the 2017 VLAC Report. We agree that giving tracks the ability to re-invest in their properties and develop new and aggressive marketing programs will improve their health and in turn have a positive impact on the horse racing industry in Delaware.

Respectfully submitted,



Salvatore DiMario
DSOA, Executive Director



Delaware Standardbred
Owners Association



Bessie Gruwell
DTHA, Executive Director



Delaware Thoroughbred
Horsemen's Association