

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

1995 Legislative Session

Bill No. _____ CB-44-1995

Chapter No. _____ 24

Proposed and Presented by Chairwoman MacKinnon (by request - County Executive)

Introduced by _____ Council Member MacKinnon

Co-Sponsors

Date of Introduction _____ May 23, 1995

EMERGENCY BILL

AN EMERGENCY ACT concerning

Casino Night Levy and Casino Night Events

For the purpose of establishing and imposing a casino night levy, providing for the remittance, payment, and collection of a casino night levy, providing for certain interest and penalties, providing for certain reporting and recording requirements, providing for certain actions to collect a casino night levy, establishing certain civil and criminal penalties, providing certain appeal procedures for the collection of a casino night levy, generally providing for a casino night levy, modifying certain Code provisions regarding casino nights to conform with State law, and generally providing for the conducting of casino nights.

BY adding:

SUBTITLE 10. FINANCE AND TAXATION.

Sections 10-270, 10-271, 10-272, 10-273, 10-274,
10-275, 10-276, 10-277, 10-278, 10-279,
10-280, 10-281, and 10-282,

The Prince George's County Code
(1991 Edition, 1994 Supplement).

BY repealing and reenacting with amendments:

SUBTITLE 5. BUSINESSES AND LICENSES.

Sections 5-118.01, 5-118.02, 5-118.03, 5-118.04, 5-118.08,
5-118.10, 5-118.11, 5-118.13, and 5-118.14,

The Prince George's County Code
(1991 Edition, 1994 Supplement).

BY adding:

SUBTITLE 5. BUSINESSES AND LICENSES.
Sections 5-118.09.01 and 5-118.12.01,
The Prince George's County Code
(1991 Edition, 1994 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 10-270, 10-271, 10-272, 10-273, 10-274, 10-275, 10-276, 10-277, 10-278, 10-279, 10-280, 10-281, and 10-282 of the Prince George's County Code be and the same are hereby added:

SUBTITLE 10. FINANCE AND TAXATION.

DIVISION 13. CASINO NIGHT LEVY.

Sec. 10-270. Definitions.

(a) Unless otherwise provided, for purposes of this Division the definitions contained in Section 5-118.03 of this Code shall apply.

Sec. 10-271. Casino night levy.

(a) There is hereby established and imposed a levy of twenty percent (20%) of the gross receipts derived from gaming activities conducted at a casino night by an organization pursuant to Section 5-118.01 of this Code to be expended for general purposes. The levy imposed in this Division is in addition to the fees established pursuant to Section 5-118.04 of this Code.

Sec. 10-272. Levy remittances; monthly payments; levy collection.

(a) A group or organization subject to the levy imposed by this Division shall compute and remit the levy to the Director of Finance on a monthly basis. Monthly payments shall be made on or before the last day of each month for the preceding month after the effective date of this Act.

(b) The Department shall notify the Director of Finance of the amount of the levy to be collected for the preceding month.

(c) The levy imposed under this Division shall be collected by the Director of Finance.

Sec. 10-273. Failure to remit levy; interest and penalty.

(a) If any group or organization subject to the levy imposed by this Division fails to remit such levy within the time prescribed by Section 10-272, there shall be added to such levy by the Director of Finance interest at the rate of two-thirds (2/3) of one percent (1%) per month or fraction thereof and penalty at the rate of one percent (1%) per month, or fraction thereof until paid:

(b) Any group or organization subject to the levy imposed by this Division which fails to remit such levy within the time prescribed by Section 10-272, shall have its permit to conduct a casino night suspended until the Director of Finance receives payment of the amount of the delinquent levy and any interest and/or penalty due.

Sec. 10-274. Action for collection, payment of levy.

(a) The Director shall administer and enforce the violations, fines, and penalties imposed pursuant to Section 10-281 and Section 10-282 of this Division. In addition, the County Attorney shall institute any action deemed necessary to carry out the purposes of this Division.

Sec. 10-275. Reports.

(a) Any group or organization subject to the levy imposed by this Division shall report to the Director upon such forms and set forth such information as the Director may prescribe and require. Reports required pursuant to this Section are in addition to reporting requirements set forth in this Division and in Subtitle 5, Division 2A of this Code.

Sec. 10-276. Records.

(a) Any group or organization subject to the levy imposed by this Division shall keep complete and accurate records in such form and containing such information as the Department and Director of Finance may prescribe and require.

(b) The Department and Director of Finance shall have the right to inspect and examine such records at reasonable times and the records shall be preserved for a period of four (4)

years unless the Department and Director of Finance shall require, in writing that they be kept longer.

Sec. 10-277. Cessation as an eligible organization; revocation of a casino night permit; levy due

(a) Whenever any group or organization required to pay a casino night levy under this Division shall cease being an eligible organization pursuant to Section 5-118.01 of this Code, any levy payable under this Division to the County shall become due and payable. Such group or organization shall pay the levy due within ten (10) days from the date on which the group or organization ceases being an eligible organization.

(b) Whenever the permit of any group or organization required to pay a casino night levy under this Division is revoked pursuant to Section 5-118.10 of this Code, the levy imposed under this Division shall become due and payable. Such group or organization shall pay the levy due within ten (10) days from the date on which the permit of a group or organization is revoked.

Sec. 10-278. False, fictitious, fraudulent representations.

(a) A person may not knowingly make a false, fictitious, or fraudulent representation in a levy submission, record, report, or as part of any other documentation required under this Division or under Subtitle 5, Division 2A of this Code.

Sec. 10-279. Levy refund; appeal procedure.

(a) A group or organization subject to the levy imposed by this Division shall be eligible for a refund of any levy, interest, and penalty paid in excess of the amount due and payable.

(b) Any claim for a refund under this Section shall be filed with the Director of Finance within three (3) years from the date of the payment of the levy, interest, or penalty on forms provided by the Director of Finance. The Director of Finance may require such information as deemed reasonably necessary to determine the claim for refund.

(c) Any claimant denied a refund in whole or in part under this Section shall be notified in writing of said disallowance and shall be entitled to a hearing before the Director of

Finance or the Director's designee upon written request, said hearing to be held within ninety (90) days of such request.

(d) Any claimant dissatisfied with the results of a hearing held under Subsection (c) of this Section shall have the right to appeal to the Maryland Tax Court. Said claimant may appeal the final action of the Maryland Tax Court to the courts of this State as provided by law.

Sec. 10-280. Powers of Department and Director of Finance.

(a) In addition to the powers granted to the Department in connection with the levy established and imposed under this Division, the Department is hereby authorized and empowered:

(1) To make, adopt, and amend such rules and regulations as the Department may deem necessary to implement the provisions of this Division; and

(2) To audit the records of any organization relating to gaming activities at casino nights to ensure compliance with the provisions of this Division.

(b) In addition to the powers granted to the Director of Finance in connection with the collection of the levy established and imposed under this Division, the Director of Finance is hereby authorized and empowered:

(1) To make, adopt, and amend such rules and regulations as the Director of Finance may deem necessary to fully collect the levy imposed under this Division;

(2) To compromise disputed claims in connection with the levy imposed under this Division;

(3) To compromise claims in connection with the levy in such cases where the Director of Finance finds that the full amount would be uncollectible; and

(4) To refund any levy, interest, and penalties paid by any group or organization subject to the levy imposed by this Division in excess of the amount due and payable.

Sec. 10-281. Violations; fines.

(a) A group or organization that conducts a casino night in violation of the provisions of this Division is subject to the following penalties:

(1) For a first violation, a 30-day suspension of the group's or organization's permit to conduct a casino night and a Five Hundred Dollar (\$500.00) civil penalty;

(2) For a second violation, a six (6) month suspension of the group's or organization's permit to conduct a casino night and a Three Thousand Dollar (\$3,000.00) civil penalty; and

(3) For a third violation, revocation of the group's or organization's permit to conduct a casino night and a Ten Thousand Dollar (\$10,000.00) civil penalty.

Sec. 10-282. Penalties.

(a) A person who violates any provision of this Division is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding Five Thousand Dollars (\$5,000.00) or imprisonment not exceeding three (3) years, or both.

(b) Any person who violates a civil penalty imposed pursuant to this Section shall be subject to the issuance of a civil citation pursuant to the provisions of Subtitle 28, Division 3, of this Code and shall pay the County a civil monetary fine in an amount prescribed by Subsection (a) of this Section.

(c) Any group or organization whose permit to conduct a casino night is suspended or revoked pursuant to this Section may appeal in the same manner as provided in Section 5-118.10 and Section 5-118.12 of this Code.

SECTION 2. BE IT FURTHER ENACTED that Sections 5-118.01, 5-118.02, 5-118.03, 5-118.04, 5-118.08, 5-118.10, 5-118.11, 5-118.13, and 5-118.14 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 5. BUSINESSES AND LICENSES.

DIVISION 2A. CASINO NIGHTS.

Sec. 5-118.01. Permit eligibility.

(a) To be eligible for permits generally, an applicant must be:

(1) A group, company, association, [body] corporate body, volunteer fire department, or other bona fide organization within the County that promotes the purposes of

any charitable, benevolent, patriotic, fraternal, educational, religious, or civil object or objects, and is not organized for the private profit or gain of any member of such group or organization; and

(2) [An] A group or organization that is located within Prince George's County and which has been active for at least two (2) years prior to the institution of casino night activity.

Sec. 5-118.02. Proceeds.

(a) The [net] proceeds of a casino night shall inure to such group or organization for the promotion of, and to be used for, one or more of the objects set forth in Section 5-118.01, and not for the private gain of any member of such group or organization.

Sec. 5-118.03. Definitions.

(a) Terms used in this Division and in Subtitle 10, Division 13 of this Code are defined as follows:

(1) **Casino night [or casino night event]:** A benefit performance conducted under the provisions of this Division at which [wagers are made on the outcome of games, such as card games, wheels of fortune, or roulette, and prizes are awarded.] card games, wheels of chance, or roulette are played and money winnings or tokens redeemable in money are awarded as prizes. Casino night does not include a benefit performance such as a carnival, fair, or bazaar at which the only form of gaming is a wheel of fortune, big wheel, or other wheel of chance.

(2) **Department:** The [Department of Environmental Resources] Office of Business and Regulatory Affairs or the Office of the Sheriff of Prince George's County, if so specified by Executive Order.

(3) **Director:** The Director of the [Department of Environmental Resources] Office of Business and Regulatory Affairs or the Office of the Sheriff of Prince George's County, if so specified by Executive Order.

(4) **Eligible organization:** [An] A group or organization that has obtained and possesses a valid permit for a casino night.

Sec. 5-118.04. Permit required; fees.

(a) Before operating a casino night, [the] a group or organization shall first obtain a written permit from the Department [of Environmental Resources]. Application shall be made on forms provided by the Department and submitted at least thirty (30) days prior to the first event.

(b) Before [an] a group or an organization may obtain a permit to conduct a casino night, an officer of the group or organization shall certify that the group or organization has been located in Prince George's County for at least two (2) years.

(c) The application fee for a permit shall be as established by resolution of the County Council.

(d) The permit enforcement fee shall be as established by resolution of the County Council.

(e) Permits may be issued on a yearly basis.

(f) The number of permits issued for the operation of casino nights may not exceed twenty-one (21) at any time.

Sec. 5-118.08. Volunteer members; affidavit required.

(a) Any person who works at a casino night event shall submit an affidavit, under the penalty of perjury, stating that the person is a volunteer, not working for any salary from the organization or private gain from the [net] proceeds, and not working for more than two (2) groups or organizations. The worker affidavits shall be filed with an organization's quarterly reports, as required by Section 5-118.11.

(b) Each person who works at a casino night event shall be required to obtain a license annually from the Department by submitting an application supplied by the Director.

(c) The Director shall conduct such background investigations of volunteers as necessary to insure that anyone with a past illegal gambling conviction (including probation before judgment or a plea of nolo contendere), other criminal background, or conviction for any crime involving financial misrepresentations is not allowed to work at casino night operations in the County. All individuals who assist in conducting casino nights shall be

fingerprinted. No license shall be issued to a person under 18 years old or to a person who has been convicted of a felony.

(1) The license shall be valid for one year.

(2) The license fee for supervisors, dealers and games operators, and other workers shall be as established by resolution of the County Council.

(3) Replacement badges may be issued after a replacement fee is paid. The amount of the fee shall be as established by resolution of the County Council.

(4) The license fees may be paid by the organization.

Sec. 5-118.10. Refusal, suspension, revocation, or reinstatement of permit.

(a) The Director shall review an application within 30 days after receiving it. The Director shall approve or disapprove, in writing, the application within ten (10) days after the completion of the review and promptly notify the applicant of the action taken.

(b) The Director shall reject an application if:

(1) A determination is made that any information in the application is false or misleading; or

(2) The operation of a casino night is not necessary for the accommodation of the general public or would disturb the peace, create a nuisance, or be detrimental to the morals, health, or welfare of the community.

[(a)] (c) The Director [may refuse to grant or] may suspend or revoke a casino night permit for a period not to exceed three (3) years if it finds that:

(1) An event either has caused, or will cause, traffic or parking problems detrimental to the welfare of the general public;

(2) Noise generated by the event is, or will result in, an unreasonable intrusion upon the rights of adjoining property owners;

(3) The event will jeopardize the health, safety, or welfare of residents or workers within the area or the County; or

(4) Violations of any provisions of this Division exist.

[(b)] (d) An organization may submit a request in writing to the Director for

reinstatement of a permit which has been suspended or revoked.

(1) After revocation, an organization may at any time apply to the Director for reinstatement of a casino night permit. The petitioner shall present evidence that the petitioner has cured or corrected any violation or other cause which gave rise to the prior revocation. Within ten calendar days of receiving the request for reinstatement, the Director shall issue a decision in writing and state in detail all reasons for granting or denying a request.

(2) The Director's decision may be appealed to the Board of Administrative Appeals pursuant to, and in accordance with, Section 5-118.12.

(3) The authority of the Board of Administrative Appeals to reverse, affirm, or modify decisions under Section 2-126 of the Code shall include the authority to reconsider or modify any previous revocation of a casino night permit, including any revocation which was issued or ordered by administrative or judicial order prior to the effective date of this enactment. The Board may hear additional evidence and may affirm, reverse, or modify any prior revocation of a casino night permit. The Board may, in its discretion, stay any decision to revoke a casino night permit or deny reinstatement of a casino night permit.

Sec. 5-118.11. Organizational reporting.

(a) Each group or organization conducting casino night events shall file a quarterly event report on a form supplied by the Department, within thirty (30) days from the end of each quarter as established by the Director. The reports shall include the following information:

(1) The dates of each event held during the reporting period;

(2) The gross and net income derived from each event;

(3) An itemized list of expenses, including the names and addresses of each vendor and lessor, the necessity of each expense, date of purchase or lease, and, if prepaid before the event(s), the source of the payment;

(4) As of the date of filing, an itemized list of any gifts or donations made from the proceeds of the casino night events, including:

(A) The name, address, and tax identification number of each person, group, or organization receiving such gifts or donations; and

(B) The dates and amounts of each gift or donation;

(5) A statement of the organization's intent as to the disposition of any unexpended portion of net proceeds from such events;

(6) Copies of the worker affidavits required by Section 5-118.08, in addition to a certification by an officer of the applicant group or organization that none of the [net] proceeds were used for the private gain of any member of the organization or any affiliated organization, foundation, or institution; and

(7) A list of all persons who worked at casino night events during the reporting period.

(b) Each group or organization shall file an annual report for the preceding calendar year, on a form supplied by the Department, not later than April 15 of each year (beginning April 15, 1989). The report shall contain a summary of the previous year's activities and a statement of how the organization's casino night event activities continually and substantially work towards the organization's stated goals and activities. The group or organization shall also submit an unqualified audited financial statement prepared by an independent certified public accountant and a copy of its most recent IRS 990 and State Form COF-85 or any other substitute documents deemed necessary by the Director.

(c) On or before July 1 of each year, each group or organization operating as a casino night permittee during the twelve (12) months preceding that July 1, shall report under affidavit to the Comptroller of the Treasury, the Prince George's County House of Delegates Delegation, the Prince George's County Senate Delegation, and the County Executive and County Council of Prince George's County on:

(1) The total gross receipts from gaming activities at casino nights in Prince George's County for the twelve-month period; and

(2) The total expenses directly relating to gaming activities at casino nights for the twelve-month period.

Sec. 5-118.12. Appeal.

(a) Within ten (10) calendar days of any final decision of the Director, made pursuant to this Division, any aggrieved person may appeal the decision to the Board of Administrative Appeals. The appeal shall be filed with the Clerk of the Board of Appeals, shall be written, and shall state in detail all reasons that support the appeal.

(b) The Board of Administrative Appeals will hold a hearing, if requested, and shall issue a decision in writing within sixty (60) days after the close of the record of the hearing. In cases where no hearing is requested, the Board shall issue a decision within sixty (60) days of its receipt of the appeal. Failure to render a decision within the time period stated in this Section shall affirm the decision of the Director.

(c) Any party aggrieved by the decision of the Board of Administrative Appeals may appeal such decision to the Circuit Court for Prince George's County, Maryland, pursuant to the rules governing appeals from administrative agencies. This appeal shall be on the record.

Sec. 5-118.13. Violations; fines.

(a) Any person who violates any provision of this Division shall be subject to the issuance of a civil citation pursuant to the provisions of Subtitle 28, Division 3, of this Code, and shall pay the County a civil monetary fine in an amount prescribed by Subsection (b) of this Section.

(1) Each day the violation remains uncorrected is deemed a separate offense and is subject to an additional citation and fine as prescribed by Subsection (b) of this Section.

(b) [The civil monetary fine for each civil violation of any provisions of this Division shall be Two Hundred Dollars (\$200.00) for the first violation, Four Hundred Dollars (\$400.00) for a repeat of the same violation, and Five Hundred Dollars (\$500.00) for each repeat violation in excess of two (2)

(a)] A group or organization that conducts a casino night in violation of the provisions of this Division is subject to the following penalties:

(1) For a first violation, a 30-day suspension of the group's or organization's permit to conduct a casino night and a Five Hundred Dollar (\$500.00) civil penalty;

(2) For a second violation, a six (6) month suspension of the group's or organization's permit to conduct a casino night and a Three Thousand Dollar (\$3,000.00) civil penalty; and

(3) For a third violation, revocation of the group's or organization's permit to conduct a casino night and a Ten Thousand Dollar (\$10,000.00) civil penalty.

Sec. 5-118.14. Penalties.

Any person who violates any provision of this Division is guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed [One Thousand Dollars (\$1,000.00)] Five Thousand Dollars (\$5,000.00) or imprisonment not exceeding [six (6) months] three (3) years, or both.

SECTION 3. BE IT FURTHER ENACTED that Sections 5-118.09.01 and 5-118.12.01 of the Prince George's County Code be and the same are hereby added:

SUBTITLE 5. BUSINESSES AND LICENSES.

DIVISION 2A. CASINO NIGHTS.

Sec. 5-118.09.01. Gratuities.

(a) A volunteer who assists an organization that conducts a casino night may receive a gratuity offered by a public invitee who is playing the games of chance offered during the casino night activities.

(b) An organization that conducts a casino night shall monitor and keep daily records of any gratuities received by an individual pursuant to Subsection 5-118.09.01(a) for each shift the individual assisted during each casino night conducted by the organization. Records required shall include the name and social security number of each individual who receives gratuities under this Section.

(c) Upon request of the Director, an organization that conducts a casino night shall make the records required under Subsection 5-118.09.01(b) available for inspection by the Director, or the Director's designee.

(d) Except for a gratuity offered by a public invitee who is playing the games of chance offered during the casino night activities, an organization may not pay an individual who

assists in conducting a casino night a salary or compensation of any kind for assisting in conducting the casino night.

Sec. 5-118.12.01. False, fictitious, or fraudulent representations.

(a) A person may not knowingly make a false, fictitious, or fraudulent representation in a permit application, levy submission, record, report, or as part of any other documentation required under this Division or under Subtitle 10, Division 13 of this Code.

SECTION 4. BE IT FURTHER ENACTED that in accordance with the provisions of Section 317 of the Charter, the County Council hereby declares that a public emergency exists affecting the public health, safety, and welfare; said emergency being the need to provide additional funds to offset the fiscal reductions anticipated in the FY96 operating budget which takes effect on July 1, 1995.

SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect on the date it becomes law.

Adopted this 13th day of June, 1995, by an affirmative vote of two-thirds of the members of the full County Council.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:

Anne T. MacKinnon
Chairwoman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____

BY:

Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.