

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

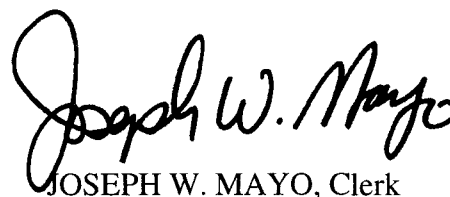
No. 2349

I.B. 4

House of Representatives, January 5, 2000

An Act to Allow Video Lottery Terminals.

Transmitted to the Clerk of the 119th Maine Legislature by the Secretary of State on November 16, 1999 and ordered printed.


JOSEPH W. MAYO, Clerk

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 17 MRSA §348** is enacted to read:

6 **§348. Video lottery terminals exempted**

8 Except as expressly provided in chapter 16, this chapter
10 does not apply to video lottery terminals as defined in section
12 361.

14 **Sec. 2. 17 MRSA c. 16** is enacted to read:

16 **CHAPTER 16**

18 **VIDEO LOTTERY TERMINALS**

20 **SUBCHAPTER I**

22 **GENERAL PROVISIONS**

24 **§361. Definitions**

26 As used in this chapter, unless the context otherwise
28 indicates, the following terms have the following meanings.

30 **1. Associated equipment.** "Associated equipment" means any
32 proprietary device, machine or part used in the manufacture or
34 maintenance of a video lottery terminal, including but not
36 limited to mechanisms, mechanical components and assemblies,
38 integrated circuit chips, printed wired assemblies, printed wired
40 boards, printing mechanisms, video display monitors and metering
42 devices.

44 **2. Formal charging instrument.** "Formal charging
46 instrument" means a complaint, an indictment, information, a
48 juvenile petition or other formal written accusation against a
50 person for a criminal or juvenile offense.

3. Fugitive from justice. "Fugitive from justice" has the
same meaning as set forth in Title 15, section 201, subsection 4.

4. Licensee. "Licensee" means a person licensed by the
Chief of the State Police to operate a video lottery terminal in
accordance with section 371.

5. Net video lottery terminal income. "Net video lottery
terminal income" means money or credits inserted into a video
lottery terminal minus money or credits paid out or awarded.

6. Operate. "Operate" means to offer for public use.

2 7. Pari-mutuel facility. "Pari-mutuel facility" means a
4 location at which a person is licensed under Title 8, chapter 11
 to accept pari-mutuel wagers on horse races.

6 8. Payback value. "Payback value" means the value of
8 credits granted to players by a video lottery terminal compared
 to the value of money inserted into the video lottery terminal by
10 players, calculated on an annual basis.

12 9. Person. "Person" means an individual, corporation,
 association or partnership.

14 10. Racing commission. "Racing commission" means the State
16 Harness Racing Commission.

18 11. Uniform location agreement. "Uniform location
20 agreement" means a written agreement between a licensee and a
 video lottery terminal distributor that governs the terms and
 conditions of the placement of a video lottery terminal on the
22 premises of the licensee.

24 12. Video lottery terminal. "Video lottery terminal" means
 any mechanical, electrical, electronic or other device,
26 contrivance or machine that, upon insertion of a coin, token,
 credit or similar object or thing of value, is available to play
 or operate, the play or operation of which by application of the
28 element of chance may deliver, or entitle the person playing or
 operating the device to receive, cash, tokens to be exchanged for
30 cash, merchandise or any other thing of value, whether the payoff
 is made automatically from the device or in any other manner.

32 13. Video lottery terminal distributor. "Video lottery
34 terminal distributor" means a person who owns video lottery
 terminals and who distributes or places video lottery terminals
36 or associated equipment for use in this State.

38 14. Video lottery terminal wholesaler. "Video lottery
40 terminal wholesaler" means a person who sells video lottery
 terminals or associated equipment for distribution in this State.

42 §362. License required

44 A person may not manufacture, distribute, sell, operate or
46 place a video lottery terminal for use in this State unless the
 person is licensed to do so by the Chief of the State Police. A
48 person may not place for public use or operate a video lottery
 terminal in this State unless the machine is registered with the
50 Chief of the State Police.

2 **§363. Administration and enforcement**

4 The Chief of the State Police shall administer and enforce
the provisions of this chapter.

6 **§364. Powers and duties of the Chief of the State Police**

8 **1. Powers.** In addition to powers conferred by any other
provision of law, the Chief of the State Police may:

10 A. Regulate, supervise and exercise general control over
12 the operation of video lottery terminals;

14 B. Investigate the direct or indirect ownership or control
of any licensee;

16 C. Adopt rules, which are routine technical rules pursuant
18 to Title 5, chapter 375, subchapter II-A, necessary to
administer and enforce this chapter; and

20 D. In any investigation conducted under this chapter, issue
22 to persons licensed under this chapter subpoenas to compel
the attendance of witnesses and the production of evidence
24 relevant to any fact at issue.

26 **2. Duties.** The Chief of the State Police shall:

28 A. Investigate or cause to be investigated complaints made
to the State Police and violations of this chapter or the
30 rules adopted under this chapter;

32 B. Adopt rules to prevent undesirable conduct relating to
the operation of video lottery terminals, including the
34 following:

36 (1) The practice of fraud or deception upon a player
of a video lottery terminal;

38 (2) The presence of a video lottery terminal in or at
40 premises that may be unsafe due to fire hazard or other
conditions. A rule, however, may not have the effect
42 of limiting the number of machines that may be located
on the premises of any licensee to fewer than 1,500
44 machines provided floor space is reasonably available
to accommodate video lottery terminals and the patrons
46 playing them;

48 (3) The use of obscene advertising;

50 (4) The presence of disorderly persons in a location
where video lottery terminals are in use; and

LICENSING

2
4 **§371. License to operate**

6 **1. Eligible persons.** The Chief of the State Police shall,
8 within 60 days of receiving an application, issue a license to
10 operate video lottery terminals to an owner or operator of a
12 commercial track, as defined in Title 8, section 275-A,
14 subsection 1, if the Chief of the State Police finds that the
16 commercial track conducted live racing on more than 100 days in
18 each of the previous 2 calendar years. A commercial track may
20 operate video lottery terminals only on days and at locations for
22 which it is licensed to accept pari-mutuel wagers on horse races.

24 **2. Restriction against proliferation.** A license may not be
26 issued under subsection 1 to any commercial track located within
28 150 miles of any existing licensee.

30 **3. Placement of video lottery terminal.** Licensees shall
32 prohibit persons under 21 years of age from any area in which a
34 video lottery terminal is located.

36 **4. Uniform location agreement.** Each video lottery terminal
38 must be subject to a uniform location agreement between the
40 distributor and the licensee. A copy of the agreement must be
42 submitted to the Chief of the State Police. The uniform location
44 agreement is the complete and sole agreement between the licensee
46 and the distributor regarding video lottery terminals. No other
48 agreement between the licensee and the distributor is legally
 binding.

5. Disclosure of other contracts and agreements. A
 distributor shall disclose to the Chief of the State Police any
 other contracts or agreements that the distributor or a
 subsidiary of the distributor has made with a licensee.

§372. Registration of video lottery terminal

1. Registration; license required. A video lottery
 terminal may not be placed for public use or operated in this
 State unless the video lottery terminal is registered with the
 Chief of the State Police, the operator is licensed by the Chief
 of the State Police and the owner of the video lottery terminal
 is licensed under either section 371 or section 373. The
 registration must be prominently displayed on the video lottery
 terminal. Language describing the odds of winning the game and
 warning of the danger of compulsive gambling must also be
 prominently displayed on the video lottery terminal.

2 2. Requirements for registration. To be registered, a
3 video lottery terminal:

4 A. May not have any means of manipulation that affect the
5 random probabilities of winning a game;

6 B. Must have one or more mechanisms that accept coin, cash
7 in the form of bills, tokens, credit instruments or similar
8 things of value that are designed to prevent a person from
9 playing the video lottery terminal or from obtaining credits
10 without paying;

11 C. Must be designed to suspend operation until reset if a
12 person attempts, by physical or other tampering, to play the
13 video lottery terminal or obtain credits without paying;

14 D. Must have nonresettable meters housed in a readily
15 accessible locked area that keep a permanent record of all
16 money or credits inserted into the video lottery terminal
17 and of all money or credits paid or awarded by the video
18 lottery terminal; and

19 E. Must be capable of providing a record of information
20 that includes, but is not limited to, the total money or
21 credits inserted into the video lottery terminal and the
22 total money or credits awarded by the video lottery terminal.

23 3. Payback value. The payback value of each type of game
24 offered by a video lottery terminal must be at least 75%.

25 4. Examination of prototypes. The Chief of the State
26 Police and the Attorney General shall examine prototypes of video
27 lottery terminals and associated equipment of manufacturers
28 seeking a license as required in this chapter. The Chief of the
29 State Police shall require the manufacturer seeking the
30 examination and approval of a video lottery terminal or
31 associated equipment to pay the anticipated actual cost of the
32 examination before the examination occurs. After the examination
33 occurs, the Chief of the State Police shall refund overpayments
34 or charge and collect amounts sufficient to reimburse the Chief
35 of the State Police for underpayments of actual cost. The Chief
36 of the State Police may contract for the examinations of video
37 lottery terminals and associated equipment as required by this
38 section.

39 §373. Licensing of manufacturer, distributor or wholesaler

40 1. Qualifications. A person applying for a license under
41 this section may be licensed by the Chief of the State Police as
42 a video lottery terminal manufacturer, distributor or wholesaler
43 if the chief is satisfied that the applicant and any of its
44 assets are sufficient to guarantee the payment of the license fee.

2 officers, directors, partners or owners of interest in that
3 association or corporation, other than persons whose interest
4 arises solely from their ownership of publicly traded shares:

5 A. Have complied substantially with this chapter and rules
6 adopted by the Chief of the State Police under this chapter
7 during the preceding year if they held any license issued
8 under this chapter during that period;

9 B. Will fully comply with this chapter and rules adopted by
10 the Chief of the State Police under this chapter during the
11 coming year;

12 C. Are of good moral character and have not been convicted
13 of a violation of this chapter or chapter 14 or of a crime
14 punishable by one year or more of imprisonment in any
15 jurisdiction unless at least 10 years have passed since
16 satisfactory completion of the sentence or probation imposed
17 by the court for the crime;

18 D. Have sufficient financial assets to meet any financial
19 obligations imposed by this chapter and a method acceptable
20 to the Chief of the State Police for meeting those
21 obligations; and

22 E. Have not knowingly made a false statement of material
23 fact to the Chief of the State Police in applying for a
24 license under this chapter or chapter 14.

25 2. Video lottery terminal distributors. Notwithstanding
26 any other provision of this chapter, the Chief of the State
27 Police shall, within 60 days of receiving an application, license
28 as a video lottery terminal distributor any person who is
29 licensed to operate a pari-mutuel facility that meets the
30 definition of a commercial track under Title 8, section 275-A,
31 subsection 1 and who was awarded race dates to conduct harness
32 racing on at least 100 days during 1998.

33 3. Requirement for license. A person may not manufacture
34 for distribution in or to this State, distribute within this
35 State or own within this State a video lottery terminal unless
36 the person is licensed under either this section or section 371.

37 **§374. Application**

38 1. Form. An application for a license required under this
39 chapter, except section 371, must be on a form provided by the
40 Chief of the State Police. The application must be signed by the
41 individual applicant or by a duly authorized officer or agent of
42 the association or corporation applying for the license. The
43 application must be filed with the Chief of the State Police
44 within 60 days of the date the application is received by the
45 Chief of the State Police.

2 application must contain, but is not limited to, the following
3 information regarding the individual applicant and each officer,
4 director, partner or owner of interest in an association or
5 corporation, other than persons whose interest arises solely from
6 their ownership of publicly traded shares, applying for a license:

7 A. Full name;

8 B. Full current address and addresses for the prior 5 years;

9 C. A record of previous issuances of, refusals to issue and
10 revocations of a license under this chapter; and

11 D. Answers to the following questions posed in
12 substantially the following form:

13 (1) "Is there a formal charging instrument now pending
14 against you in this or any other jurisdiction for a
15 crime that is punishable by imprisonment for one year
16 or more?";

17 (2) "Is there a formal charging instrument now pending
18 against you in this or any other jurisdiction for a
19 juvenile offense that involves conduct that, if
20 committed by an adult, would be punishable by
21 imprisonment for one year or more?";

22 (3) "Have you ever been convicted of a crime described
23 in subparagraph (1) or been adjudicated as having
24 committed a juvenile offense as described in
25 subparagraph (2)?";

26 (4) "Are you a fugitive from justice?";

27 (5) "Are you a drug abuser, drug addict or
28 drug-dependent person?";

29 (6) "Have you been dishonorably discharged from the
30 military within the past 5 years?"; and

31 (7) "Are you an illegal alien?"

32 2. Signature as certification. The applicant, by affixing
33 the applicant's signature to the application, certifies the
34 following:

35 A. That the statements made in the application and any
36 documents made a part of the application are true and
37 correct;

2 B. That the applicant understands that an affirmative
3 answer to one or more of the questions in subsection 1,
4 paragraph D, subparagraphs (3) to (7) is cause for refusal;

5 C. That the applicant understands that the answers to
6 questions in subsection 1, paragraph D are used by the Chief
7 of the State Police, along with other information, to judge
8 good moral character and that an affirmative answer to one
9 or more of those questions may be cause for refusal to issue
10 a license; and

11 D. That the applicant understands that knowingly making a
12 false statement in the application or any document made a
13 part of the application is grounds for refusal to issue a
14 license or for revocation or suspension of a license.

15 3. Consent to review records. At the request of the Chief
16 of the State Police, the applicant shall take whatever action is
17 necessary to permit the Chief of the State Police to examine
18 accounts and records in the applicant's possession, under the
19 applicant's control or under the control of 3rd persons but
20 accessible by consent of the applicant, relating to video lottery
21 terminals, and must authorize 3rd persons in possession or in
22 control of those accounts or records to allow the Chief of the
23 State Police or a designee to examine the accounts and records as
24 the Chief of the State Police determines necessary to ascertain:
25 the Chief of the State Police determines necessary to ascertain:

26 A. Whether the information supplied on the application or
27 any documents made a part of the application are true and
28 correct;

29 B. Whether each of the requirements of this section has
30 been met; or

31 C. Whether the applicant meets the requirements for
32 licensure under this chapter.

33 The required consent includes taking whatever action is necessary
34 to permit the Chief of the State Police or a designee to have
35 access to confidential records held by banks, the courts, law
36 enforcement agencies and the military for the purposes stated in
37 this subsection.

38 **§375. Fee; term of license; transferability**

39 1. Fee. The biennial fee for a license issued under this
40 chapter is as follows:

41 A. A license for a video lottery terminal manufacturer is
42 \$1,000;

- 2 B. A license for a video lottery terminal wholesaler is
3 \$1,000;
- 4
- 5 C. A license for a video lottery terminal distributor is
6 \$1,000; and
- 7
- 8 D. A license for an operator of a video lottery terminal
9 who, under that license, also acts as a video lottery
10 terminal manufacturer, wholesaler or distributor is \$1,000.

11 In addition to the biennial license fee, the Chief of the State
12 Police may charge a one-time application fee for a license
13 described in paragraph A, B or C in an amount equal to the actual
14 cost of processing the application and performing any background
15 investigations. All fees collected pursuant to this section
16 must be distributed to the Department of Public Safety, Bureau of
17 State Police.

18

19 2. Term of license. All licenses issued by the Chief of
20 the State Police under this chapter are effective for 2 years and
21 renewable biennially, unless revoked pursuant to section 376.

22

23 3. Nontransferable. A license issued under this chapter is
24 not transferable or assignable.

25

26 §376. Actions relating to license

27

28 1. Suspension or revocation of license; refusal to renew.
29 The Chief of the State Police may refuse to renew a license after
30 a hearing in accordance with the Maine Administrative Procedure
31 Act. For a violation of a provision of this chapter or a rule
32 adopted pursuant to this chapter, the Chief of the State Police
33 may suspend a license issued under any section of this chapter
34 for a period of up to 180 days. The Chief of the State Police
35 may refuse to renew or may suspend a license issued under any
36 section of this chapter, except section 371, and the
37 Administrative Court may revoke or suspend a license for any of
38 the following reasons:

39

40 A. The license holder made or caused to be made a false
41 statement of material fact in obtaining a license under this
42 chapter or in connection with service rendered within the
43 scope of the license issued;

44

45 B. The license holder or the license holder's agent
46 violated a provision of this chapter or any rule adopted
47 under this chapter; or

48

2 A. Forty percent is sent to the Treasurer of State to be
3 deposited into and distributed through the Local Government
4 Fund, Title 30-A, section 5681, subsection 3;

5 B. An amount not to exceed 26% is paid to the distributor
6 who owns the machine;

7 C. Five percent is retained by the licensee and used to
8 supplement harness racing purses at its facility;

9 D. One percent is sent to the racing commission and
10 credited by the racing commission to the Sire Stakes Fund
11 created in Title 8, section 281;

12 E. Three percent is paid to the Department of Public
13 Safety, Bureau of State Police to cover administrative
14 expenses attributable to duties arising under this chapter;

15 F. Two percent is paid to the Treasurer of State, who shall
16 credit the money to the Stipend Fund provided for in Title
17 7, section 62. The money credited is distributed to
18 agricultural fairs licensed under Title 8 to accept wagers
19 on harness races and that do not telecast those races or
20 accept wagers placed at any betting facility located off the
21 grounds of the fair; and

22 G. All remaining net video lottery terminal revenue is
23 retained by the licensee.

24 2. Failure to deposit funds. A video lottery terminal
25 distributor who willfully refuses to comply with this section
26 commits a Class D crime. The license of that person may be
27 revoked by the Administrative Court and the video lottery
28 terminals to which the undeposited funds are attributable may be
29 disabled by the Chief of the State Police.

30 3. Late payments. A payment not remitted within 30 days of
31 the date due must be paid together with a penalty assessment on
32 the unpaid balance at a rate of 1.5% per month for the period
33 commencing 30 days after the date when the payment was due.

44 SUBCHAPTER IV

45 ENFORCEMENT AND PENALTIES

46 §391. Reports; records

47 1. Reports; records. The Chief of the State Police shall
48 require from any licensed video lottery terminal distributor,
49 manufacturer, wholesaler or licensee whatever records and reports
50

2 the chief considers necessary for the administration and
3 enforcement of this chapter.

4 2. Location. A license holder shall maintain all records
5 required by this chapter or by rules adopted under this chapter
6 at the primary business office within this State of the license
7 holder or on the premises where a video lottery terminal is
8 operated. In the case of a video lottery terminal manufacturer
9 or wholesaler, the records must be maintained at the primary
10 business office of the manufacturer or wholesaler. The primary
11 business office must be designated by the license holder in the
12 license application. Records required by this chapter or by
13 rules adopted under this chapter must be open to inspection by
14 the Chief of the State Police or a designee and a license holder
15 may not refuse the Chief of the State Police or a designee the
16 right to inspect or audit the records. Refusal to permit
17 inspection or audit of the records is not a crime under this
18 chapter, but does constitute grounds for suspension of the
19 license.

20 **§392. Access to video lottery terminals, premises, equipment,**
21 **records**

22
23
24 A person holding a license under this chapter shall permit
25 the Chief of the State Police or a designee to inspect any video
26 lottery terminal, associated equipment, records, materials and
27 other things used or to be used in the operation of a video
28 lottery terminal manufactured, owned, distributed or operated by
29 that person. A person holding a license under this chapter shall
30 consent in writing to the examination of all accounts, bank
31 accounts and records in the license holder's possession or under
32 the license holder's control and shall authorize all 3rd parties
33 in possession or in control of those accounts or records to allow
34 the Chief of the State Police or a designee to examine the
35 accounts and records as the chief determines necessary.

36 **§393. Contempt**

37
38
39 If a witness refuses to obey a subpoena issued by the Chief
40 of the State Police or to give any evidence relevant to proper
41 inquiry by the chief, the Attorney General may petition the
42 Superior Court in the county where the refusal occurred to find
43 the witness in contempt. The Attorney General shall cause to be
44 served on the witness an order requiring that witness to appear
45 before the Superior Court to show cause why that witness should
46 not be adjudged in contempt. The court shall hear the evidence
47 submitted by the witness and the Attorney General and, if it is
48 such as to warrant the court to do so, punish the witness in the
same manner and to the same extent as for contempt committed

2 before the Superior Court or with reference to the process of the
3 Superior Court.

4 **§394. Violations**

6 **1. Crimes by licensee.** A licensee who performs any of the
7 following acts commits a Class D crime:

8 A. Knowingly permits a person under 21 years of age to play
9 a video lottery terminal registered pursuant to this chapter;

10 B. Knowingly permits a person to play a video lottery
11 terminal registered pursuant to this chapter at a time other
12 than during the hours for which play is permitted in
13 accordance with section 381;

14 C. Extends credit to a person in order for the person to
15 play a video lottery terminal; or

16 D. Permits a visibly intoxicated person to play a video
17 lottery terminal.

18 **2. Crimes by person.** A person who performs any of the
19 following acts commits a Class C crime:

20 A. Tamper with a video lottery terminal with intent to
21 interfere with the proper operation of that video lottery
22 terminal; or

23 B. Manipulates or intends to manipulate the outcome, payoff
24 or operation of a video lottery terminal by physical
25 tampering or any other means.

26 **Sec. 3. 25 MRSA §3902, sub-§4 is enacted to read:**

27 **4. Notice of violation of video lottery terminal law.** A
28 liquor enforcement officer who notices a violation of a provision
29 of Title 17, chapter 16 shall promptly issue written notification
30 of the violation to the Chief of the State Police and shall
31 provide a copy of this written notification to the licensee or
32 license holder.

33 **Sec. 4. Working capital advances.** The State Controller may
34 advance from the unappropriated surplus of the General Fund to
35 the Department of Public Safety, Bureau of State Police the sum
36 of \$600,000 to be used for any necessary start-up costs
37 associated with the licensing, regulation and supervision of
38 video lottery terminals in the State pursuant to the Maine
39 Revised Statutes, Title 17, chapter 16.

2

SUMMARY

4 This initiated bill authorizes the operation of video
lottery terminals at certain existing regulated pari-mutuel
6 facilities. The initiated bill establishes a regulatory
framework for the operation of video lottery terminals, including
8 standards for the registration of the terminals and the licensing
of video lottery terminal manufacturers, distributors,
10 wholesalers and operators. Video lottery terminal use is limited
to the hours between noon and one hour after midnight. Video
12 lottery terminal use by a person under 21 years of age is
prohibited. The initiated bill specifies the allocation of net
14 video lottery terminal income to include the following: 40% to
be sent to the Treasurer of State and distributed through
16 municipal revenue sharing; up to 26% to be paid to the
distributor who owns the video lottery terminal; 5% to be used to
18 supplement harness racing purses; 1% to be used for purses in
sire stakes races; 3% to be used by the Department of Public
20 Safety to cover administrative costs; 2% to benefit the State's
agricultural fairs; and the balance to be retained by the person
22 licensed to operate the video lottery terminal. Primary
responsibility for administering and enforcing video lottery
24 terminal laws and rules is given to the Chief of the State Police.