

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 121st MAINE LEGISLATURE

## SECOND REGULAR SESSION-2004

---

Legislative Document

No. 1820

H.P. 1342

House of Representatives, January 5, 2004

### **An Act To Establish the Gambling Control Board To License and Regulate Slot Machines at Commercial Harness Racing Tracks**

(EMERGENCY)

---

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative LEMOINE of Old Orchard Beach. (GOVERNOR'S BILL)  
Cosponsored by Senator GAGNON of Kennebec and  
Representatives: ANDREWS of York, CLARK of Millinocket, DAIGLE of Arundel,  
RICHARDSON of Brunswick, Senators: President DAGGETT of Kennebec, DAVIS of  
Piscataquis, MAYO of Sagadahoc, TREAT of Kennebec.



2           A. Sixty percent of these funds must be distributed to all  
4           entities licensed as agricultural fairs by the department  
6           that during the previous year were licensed to and did  
8           accept pari-mutuel wagers on harness horse races. Each  
10           licensed entity must receive a proportionate distribution  
12           based upon the number of days in the preceding year each  
14           licensee conducted live races during its regular fair meet.  
16           The funds must be used by the fairs to supplement purses; and

18           B. Forty percent of these funds must be divided among all  
20           entities licensed as agricultural fairs by the department.  
22           These funds must be distributed in the same proportion as  
24           funds distributed for premium payments made pursuant to  
26           section 64 and may be used at the fairs' discretion.

28           **Sec. A-3. 8 MRSA §298** is enacted to read:

30           **§298. Fund to supplement harness racing purses**

32           1. Fund created. A fund is established to supplement  
34           harness racing purses to which the commission shall credit all  
36           payments received pursuant to section 1036, subsection 1,  
38           paragraph B, subparagraph (2) for distribution in accordance with  
40           this section.

42           2. Distribution. On May 30th, September 30th and January  
44           30th, all amounts credited to the fund established by this  
46           section as of the last day of the preceding month and not  
48           distributed before that day must be distributed to each  
          commercial track licensed under section 271, with each track  
          receiving an amount of money determined by multiplying the amount  
          of money available for distribution by a fraction, the numerator  
          of which is the total number of live race days conducted by the  
          commercial track during the preceding time period and the  
          denominator of which is the total number of race days conducted  
          by all commercial tracks licensed under section 271 during that  
          time period. The payment in January must be adjusted so that for  
          the prior 3 time periods each commercial track receives a portion  
          of the total money distributed over the full year from the fund  
          established by this section, the amount determined by multiplying  
          the total amount of money by a fraction, the numerator of which  
          is the number of live race days conducted by the commercial track  
          during the calendar year and the denominator of which is the  
          total number of race days conducted by all commercial tracks  
          licensed under section 271 during that calendar year. All funds  
          distributed pursuant to this section must be used to supplement  
          harness racing purses.

2       3. Rules. The commission may adopt rules to enforce the  
obligation of licensees to use funds distributed under this  
4       section to supplement harness racing purses and to require  
licensees to account for funds. Rules adopted pursuant to this  
6       subsection are routine technical rules pursuant to Title 5,  
chapter 375, subchapter 2-A.

8               **Sec. A-4. 8 MRSA c. 31** is enacted to read:

10                               **CHAPTER 31**

12                               **GAMBLING CONTROL BOARD**

14                               **SUBCHAPTER 1**

16                               **GENERAL PROVISIONS**

18       **§1001. Definitions**

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

22               1. Applicant. "Applicant" means a person who has submitted  
24       an application for a license.

26               2. Associated equipment. "Associated equipment" means any  
component part used, or intended for use, in a slot machine,  
28       including, but not limited to, software, integrated circuit  
chips, printed wired assemblies, printed wired boards, printing  
30       mechanisms, video display monitors and metering devices.

32               3. Beano. "Beano" has the same meaning as set forth in  
Title 17, section 311, subsection 1.

34               4. Board. "Board" means the Gambling Control Board  
36       established under section 1002.

38               5. Business organization. "Business organization" means a  
partnership, incorporated or unincorporated association, firm,  
40       corporation, limited liability company, trust or other form of  
business or legal entity other than a financial institution  
42       regulated by a state or federal agency that is not exercising  
control over a licensee.

44               6. Commercial track. "Commercial track" has the same  
46       meaning as set forth in section 275-A, subsection 1.

48               7. Compensation percentage. "Compensation percentage"  
means the percentage of gross slot machine income determined  
50       pursuant to section 1037 and remitted to the State by a slot

2 machine operator pursuant to section 1036, subsection 1,  
paragraph B.

4 **8. Control.** "Control" means the power to exercise  
authority over or direct the management or policies of a person.

6  
8 **9. Department.** "Department" means the Department of Public  
Safety.

10 **10. Director.** "Director" means the executive director of  
the board.

12  
14 **11. Distribute.** "Distribute" means to sell, lease,  
license, place or otherwise make available for use in the State  
or to transport into the State for the purpose of selling,  
16 leasing, licensing, placing or otherwise making available for use  
in the State.

18  
20 **12. Drug abuser.** "Drug abuser" has the same meaning as set  
forth in Title 5, section 20003, subsection 10.

22 **13. Drug addict.** "Drug addict" has the same meaning as set  
forth in Title 5, section 20003, subsection 11.

24  
26 **14. Drug-dependent person.** "Drug-dependent person" has the  
same meaning as set forth in Title 5, section 20003, subsection  
12.

28  
30 **15. Fugitive from justice.** "Fugitive from justice" has the  
same meaning as set forth in Title 15, section 201, subsection 4.

32 **16. Gambling activity.** "Gambling activity" means off-track  
betting, pari-mutuel wagering at a race track, high-stakes beano,  
34 beano, game of chance or slot machine operation.

36 **17. Gambling facility.** "Gambling facility" means a race  
track, off-track betting facility, high-stakes beano or beano  
38 facility, a game of chance facility or slot machine facility.

40 **18. Gambling services.** "Gambling services" means any goods  
or services provided to an operator licensed under this chapter  
42 or at a gambling facility that are used directly in connection  
with the operation of a slot machine, including, but not limited  
44 to, slot machine maintenance, security services or junket  
services, and excluding slot machine distribution by a slot  
46 machine distributor.

48 **19. Gambling services vendor.** "Gambling services vendor"  
means a person who is licensed under this chapter to provide  
50 gambling services.

2           **20. Game of chance.** "Game of chance" has the same meaning  
as set forth in Title 17, section 330, subsection 2.

4           **21. Gross slot machine income.** "Gross slot machine income"  
6 means money, tokens, credits or similar objects or things of  
value used to play a slot machine minus money, credits or prizes  
8 paid out to winners.

10           **22. High-stakes beano.** "High-stakes beano" means the  
activity authorized in Title 17, section 314-A.

12           **23. Immediate family.** "Immediate family" means spouse,  
14 parents and children.

16           **24. Junket services.** "Junket services" means an  
arrangement to facilitate the attendance at a gambling facility  
18 of customers selected by reason of their propensity to gamble by  
providing to those customers any consideration, including cash,  
20 credits or rebates or reduced charges for goods or services such  
as transportation, lodging, food, beverages or entertainment.  
22 "Junket services" does not include providing common  
transportation to a gambling facility to the public without  
24 limitation to selected customers.

26           **25. Key individual.** "Key individual" means an individual  
exercising control over managerial or administrative decisions  
28 concerning the applicant's or licensee's business.

30           **26. License.** "License" means a license issued by the board  
under this chapter.

32           **27. Licensee.** "Licensee" means a person granted a license  
34 under this chapter.

36           **28. Nongambling services.** "Nongambling services" means any  
goods or services, other than gambling services and slot machine  
38 distribution by a slot machine distributor, provided to an  
operator licensed under this chapter or at a gambling facility,  
40 including, but not limited to, hotel concessions, restaurant  
concessions or food service.

42           **29. Nongambling services vendor.** "Nongambling services  
44 vendor" means a person who is licensed under this chapter to  
provide nongambling services.

46           **30. Operate.** "Operate" means to offer for use.

48           **31. Owner.** "Owner" means a person who owns or controls,  
50 directly or indirectly, 10% or more of a business organization.

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

6           33. Payback percentage. "Payback percentage" means the  
percentage, on an annual average basis, of the total value of  
8           money or tokens, credits or similar objects or things of value  
used to play a slot machine that is returned to players of that  
10           slot machine as winnings, prizes or credits.

12           34. Person. "Person" means an individual or a business  
organization.

14           35. Slot machine. "Slot machine" means any mechanical,  
16           electrical or electronic device, contrivance or machine or other  
device, contrivance or machine that is available to play upon  
18           insertion of money or a token, credit or similar object or thing  
of value, the play of which by the element of chance may deliver  
20           or entitle the person playing the device, contrivance or machine  
to receive cash, tokens or credits to be exchanged for cash,  
22           merchandise or anything of value, whether the payoff is made  
automatically from the device, contrivance or machine or in any  
24           other manner, and includes progressive electronic gaming devices  
with a payoff that increases as the electronic gaming device is  
26           played.

28           36. Slot machine distributor. "Slot machine distributor"  
means a person who is licensed under this chapter to distribute  
30           slot machines and associated equipment for use in the State.

32           37. Slot machine facility. "Slot machine facility" means a  
facility at which a slot machine operator operates slot machines.

34           38. Slot machine operator. "Slot machine operator" means a  
36           person who is licensed under this chapter to operate slot  
machines and associated equipment in the State.

38           39. Uniform location agreement. "Uniform location  
40           agreement" means a written agreement in a form prescribed by the  
board between a slot machine operator and a slot machine  
42           distributor that governs the terms and conditions of that  
agreement, including the placement of slot machines on the  
44           premises of the slot machine operator.

46           **§1002. Board**

48           1. Establishment. The Gambling Control Board is created  
within the Department of Public Safety to carry out the functions



2 specified in this chapter. The board is affiliated with the  
3 department as specified in this chapter.

4 2. Members. The board consists of 5 members appointed by  
5 the Governor. At least 4 of the board members must have training  
6 or experience in at least one of the following fields: corporate  
7 finance, economics, law, accounting, law enforcement, computer  
8 science or the gambling industry. An elected official or  
9 candidate for elective office may not serve as a board member.

10 3. Term of office. Members of the board serve 3-year  
11 terms, except that the Governor shall initially appoint one  
12 member for a term of one year, 2 members for a term of 2 years  
13 and 2 members for a term of 3 years. A vacancy is filled by  
14 appointment for the remainder of the unexpired term of that  
15 member. Members whose terms expire serve until their successors  
16 are appointed and confirmed. Members may serve no more than 2  
17 full consecutive terms on the board.

18 4. Confirmation. Appointees must be reviewed by the joint  
19 standing committee of the Legislature having jurisdiction over  
20 gambling matters and are subject to confirmation by the Senate.

21 5. Chair. The Governor shall appoint one of the 5 board  
22 members as chair. The member serves as chair at the pleasure of  
23 the Governor.

24 6. Quorum. An action of the board is not binding unless  
25 taken at a meeting at which at least 3 of the 5 members are  
26 present.

27 7. Removal. Except as provided in subsection 5, the  
28 Governor may remove any member of the board for just cause.

29 8. Conflict of interest. In addition to the restrictions  
30 imposed pursuant to Title 5, section 18, a board member may not  
31 participate in any matter before the board in which that board  
32 member has a personal bias or any other conflict of interest as  
33 the board determines, either on the board's own motion or in  
34 response to a written complaint. During a board member's term of  
35 service and for 2 years after the end of that board member's  
36 service, any person with a direct and substantial interest in any  
37 gambling facility or gambling activity may not employ or be  
38 represented by the board member or a member of the board member's  
39 immediate family. For the purposes of this subsection, "direct  
40 and substantial" means ownership or control of more than 10% of  
41 the voting securities of any gambling facility or any entity in  
42 contract, consort or cooperation with a gambling facility or key  
43 individual.

**§1003. Powers and duties of board**

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48  
50

1. Powers. In administering and enforcing this chapter, the board or the director, as delegated by the board, may:

A. Regulate, supervise and exercise general control over the ownership and operation of slot machines, the distribution of slot machines and slot machine facilities;

B. Adopt those rules the board determines necessary to administer and enforce this chapter;

C. Issue subpoenas to compel the attendance of witnesses and the production of evidence relevant to any fact at issue and administer oaths and require testimony under oath in the course of any investigation or hearing conducted under this chapter;

D. Require a licensee to file an independently audited annual financial report with the board, including a balance sheet and profit and loss statement, a list of all persons having any beneficial or financial interest in the licensee and such other information as the board may require, all in such form as the board may establish by rule;

E. Approve or disapprove terms and conditions of uniform location agreements;

F. Subject to any applicable laws relating to public contracts, enter into a contract for the performance of the board's or director's duties under this chapter. A contract awarded or entered into by the board or director may not be assigned by the holder of the contract except by specific approval of the board or director. All contracts must be awarded in accordance with rules adopted by the Department of Administrative and Financial Services pursuant to Title 5, chapters 141 to 145 and Title 5, sections 1812 and 1813;

G. Pursuant to subchapter 5, deny any application and limit, restrict, suspend or revoke any license, registration or approval under this chapter;

H. Impose sanctions, penalties and costs of investigation and hearing against any applicant or licensee for violation of this chapter or the rules adopted under this chapter;

I. Take any action as may be reasonable or appropriate to protect the public interest and enforce this chapter and the rules adopted under this chapter; and

2           J. Negotiate consent agreements to resolve administrative  
3           violations or investigations.

4           2. Duties. The board shall hire an executive director. The  
5           board or the director, as delegated by the board, shall hire  
6           staff and retain professional services that the board considers  
7           necessary to carry out its responsibilities. In addition, the  
8           board or the director or staff, as delegated by the board, shall:

10           A. Enforce the provisions of this chapter and any rules  
11           adopted under this chapter;

12           B. Hear and decide all license and registration  
13           applications under this chapter and issues affecting the  
14           granting, suspension, revocation or renewal of licenses and  
15           registrations;

16           C. Review the department's reports of its investigation of  
17           the qualifications of an applicant before a license or  
18           registration is issued and investigate the circumstances  
19           surrounding any act or transaction for which board approval  
20           is required;

21           D. Cause the department to investigate any alleged  
22           violations of this chapter or rules adopted under this  
23           chapter and the direct or indirect ownership or control of  
24           any licensee;

25           E. Refer violations of this chapter to the Attorney General  
26           to bring action in the courts and administrative tribunals  
27           of this State or the United States, in the name of the State  
28           of Maine;

29           F. Collect all licensing and registration fees and taxes  
30           imposed by this chapter and rules adopted pursuant to this  
31           chapter;

32           G. Develop a standard uniform location agreement;

33           H. Pursuant to subchapter 5, cause the department to  
34           investigate all complaints made to the board regarding  
35           ownership, distribution or operation of slot machines and  
36           all violations of this chapter or rules adopted under this  
37           chapter;

38           I. Adopt rules to prevent undesirable conduct relating to  
39           the ownership, distribution and operation of slot machines  
40           and slot machine facilities, including, but not limited to,  
41           the following:

42

2           (1) The practice of any fraud or deception upon a  
player of a slot machine or a licensee;

4           (2) The presence or location of a slot machine in or at  
premises that may be unsafe due to fire hazard or other  
6           public safety conditions;

8           (3) The infiltration of organized crime into the  
ownership, distribution or operation of slot machines  
10           and slot machine facilities; and

12           (4) The presence of disorderly persons in a location  
where slot machines are in use;

14  
16           J. Develop, install and test a central computer system with  
continuous on-line monitoring of all licensed slot machines  
to provide auditing program information;

18  
20           K. Maintain and monitor the central computer system  
developed under paragraph J to ensure compliance with this  
chapter;

22  
24           L. Attempt to determine the cause of any slot machine  
malfunction detected by the central computer system  
developed under paragraph J and notify the department of any  
26           suspected tampering with a slot machine or any other  
violation of this chapter or the rules adopted under this  
28           chapter;

30           M. Cause the central computer system developed under  
paragraph J to disable a slot machine and cause the  
32           department to seize the proceeds of that slot machine if the  
funds from that slot machine have not been distributed,  
34           deposited or allocated in accordance with section 1036;

36           N. Cause the central computer system developed under  
paragraph J to disable a slot machine that does not meet the  
38           registration requirements of this chapter or rules adopted  
under this chapter;

40           O. Cause the central computer system developed under  
42           paragraph J to disable a slot machine as directed by the  
department;

44  
46           P. Collect all funds and taxes due to the State under  
sections 1019 and 1036;

48           Q. Certify monthly to the department a full and complete  
statement of all slot machine revenue, credits disbursed by

2 licensees, administrative expenses and the allocation of  
3 gross slot machine income for the preceding month;

4 R. Submit by March 15th an annual report to the Governor and  
5 the joint standing committee of the Legislature having  
6 jurisdiction over gambling affairs on slot machine revenue,  
7 credits disbursed by slot machine operators, administrative  
8 expenses and the allocation of gross slot machine income for  
9 the preceding year;

10 S. Prepare and submit to the department a budget for the  
11 administration of this chapter; and

12 T. Keep accurate and complete records of its proceedings  
13 and certify the records as may be appropriate.

14 **3. Required rules.** The board shall, without limitation on  
15 the powers conferred and duties imposed in subsections 1 and 2,  
16 adopt rules governing:

17 A. Methods and forms of application that an applicant must  
18 follow and complete prior to consideration of the  
19 applicant's application by the board;

20 B. Methods, procedures and forms for delivery of  
21 information concerning an applicant's immediate family,  
22 character, associates, criminal record, business activities  
23 and financial affairs;

24 C. Procedures for the fingerprinting of an applicant, or  
25 other methods of identification the board determines  
26 necessary to accomplish effective licensing and enforcement  
27 of restrictions;

28 D. The method of collection of payments of taxes, fees and  
29 penalties;

30 E. The location and hours of operation of slot machines,  
31 types of slot machines permitted, methods of operation of  
32 slot machines and distribution and servicing of slot  
33 machines and associated equipment;

34 F. Procedures, forms and methods of management controls of  
35 licensees, including the structure of the organization and  
36 minimum security standards, including organizational  
37 structure of security personnel and alarm and other  
38 electrical or visual security measures;

39 G. Minimum procedures for the exercise of effective control  
40 over the internal fiscal affairs of slot machine operators,  
41

2 slot machine distributors, gambling services vendors and  
3 nongambling services vendors, including provisions for the  
4 safeguarding of assets and revenues, the recording of cash  
5 and evidence of indebtedness and the maintenance of reliable  
6 records, accounts and reports of transactions, operations  
7 and events, including reports to the board;

8 H. Procedures for the annual audit of the books and records  
9 of slot machine operators, slot machine distributors and  
10 gambling services vendors;

12 I. Establishment of a list of persons who are to be  
13 excluded or removed from any slot machine facility,  
14 including those persons who voluntarily request that their  
15 names be included on the list of excluded persons. These  
16 rules must define the standards for exclusion and removal  
17 and include standards regarding persons who are career or  
18 professional offenders, as defined by rules of the board,  
19 whose presence in a slot machine facility would, in the  
20 opinion of the board, be inimical to the interest of the  
21 State;

22 J. Gambling-related advertising; and

24 K. Distribution and consumption of alcoholic beverages and  
25 tobacco products on the premises of gambling facilities.

28 **§1004. Powers and duties of department**

30 **1. Powers.** In addition to powers conferred by any other  
31 provision of law, the department may:

32 A. Without notice, and at any time during regular hours of  
33 operation, enter the offices, facilities or other places of  
34 business of slot machine operators, slot machine  
35 distributors and gambling services vendors to conduct  
36 administrative inspections to determine compliance with this  
37 chapter and rules adopted under this chapter; and

38 B. Request the director to disable any slot machine if the  
39 department has a reasonable articulable suspicion that the  
40 slot machine is being operated in violation of this chapter  
41 or of any rule adopted under this chapter.

42 **2. Duties.** The department shall:

43 A. Investigate any alleged violation of this chapter or  
44 rules adopted under this chapter and investigate the direct  
45 or indirect ownership or control of any licensee;

50

2 B. Investigate the qualifications of each applicant before  
4 a license or registration is issued and investigate the  
circumstances surrounding any act or transaction for which  
board approval is required;

6 C. Report to the board any alleged violations of this  
8 chapter or rules adopted under this chapter and the results  
of any investigations of alleged violations of this chapter  
or rules adopted under this chapter;

10 D. Exchange fingerprint data with, and receive criminal  
12 history record information from, the Federal Bureau of  
14 Investigation for use in considering an applicant for a  
license issued pursuant to the provisions of this chapter;  
16 and

18 E. Report to the board the results of any investigation of  
an applicant for a license or registration under this  
chapter.

## 20 **SUBCHAPTER 2**

### 22 **LICENSING AND REGISTRATION**

#### 24 **§1011. License to operate**

26 The board shall exercise authority over the licensing of all  
28 persons participating in the operation, distribution and  
30 maintenance of slot machines and slot machine facilities and over  
the registration of slot machines.

32 1. Operator license required. A person may not operate any  
34 slot machine in the State unless the person has been issued a  
license to operate slot machines by the board.

36 2. Eligible persons. The board may accept applications for  
38 a license to operate slot machines from any person who is  
licensed to operate a commercial track that satisfies the  
following criteria:

40 A. The commercial track is located at or within a 5-mile  
42 radius of the center of a commercial track that conducted  
44 harness racing with pari-mutuel wagering on more than 25  
days during calendar year 2002; and

46 B. The operation of slot machines at the commercial track  
48 is approved by the voters of the municipality in which the  
commercial track to be licensed is located by referendum  
50 election held at any time after December 31, 2002 and before  
December 31, 2003.

2           3. Requirements for license; continued commercial track  
3           licensure. The board may not issue a license to operate slot  
4           machines to any person unless that person demonstrates compliance  
5           with the qualifications set forth in sections 1017 and 1020. A  
6           person who is granted a license to operate slot machines must  
7           maintain a license to operate a commercial track, without lapse,  
8           suspension or revocation for the duration of the slot machine  
9           operator's license.

10           **§1012. Licensing of slot machine distributors**

11           1. License to distribute required. A person may not  
12           distribute a slot machine in the State unless the person has been  
13           issued a license to distribute slot machines by the board.

14           2. Requirements for license. The board may issue a license  
15           to distribute slot machines to an applicant that meets the  
16           qualifications set out in sections 1017 and 1020.

17           **§1013. Licensing of gambling services vendors**

18           1. License required. A person may not provide gambling  
19           services in the State unless the person is licensed as a gambling  
20           services vendor by the board.

21           2. Requirements for license. The board may issue a  
22           gambling services vendor license to an applicant that meets the  
23           qualifications set out in sections 1017 and 1020.

24           **§1014. Licensing of nongambling services vendors**

25           1. License required. A person may not provide nongambling  
26           services totaling in excess of \$10,000 annually in the State  
27           unless the person is licensed as a nongambling services vendor by  
28           the board.

29           2. Requirements for license. The board may issue a  
30           nongambling services vendor license to an applicant that meets  
31           the qualifications set out in sections 1017 and 1020.

32           **§1015. Licensing of employees of slot machine operators,**  
33           **slot machine distributors and gambling services vendors**

34           1. License required. A person may not be employed by a  
35           slot machine operator, slot machine distributor or gambling  
36           services vendor unless the person is licensed to do so by the  
37           board or granted a waiver by the board pursuant to subsection 3.



2           2. Requirements for license. The board may issue an  
employee license to an employee of a slot machine operator, slot  
4           machine distributor or gambling services vendor if the applicant  
meets the qualifications set out in sections 1017 and 1020.

6           3. Requirements for waiver. Upon application by a slot  
machine operator, slot machine distributor or gambling services  
8           vendor, the board may waive the employee license requirement  
under this section if the slot machine operator, slot machine  
10          distributor or gambling services vendor demonstrates to the  
board's satisfaction that the public interest is not served by  
12          the requirement of the employee license.

14          **§1016. Licensing of employees of nongambling services vendors**

16          1. License required. A person may not be employed by a  
nongambling services vendor and work at a gambling facility  
18          unless the person is licensed to do so by the board or is granted  
a waiver by the board pursuant to subsection 3. For the purposes  
20          of this section, a person is not considered to be working at a  
gambling facility if that person's primary work assignment is at  
22          a location other than a gambling facility and the person is  
present at a gambling facility only occasionally and for a brief  
24          period of time.

26          2. Requirements for license. The board may issue an  
employee license to an employee of a nongambling services vendor  
28          if the applicant meets the qualifications set out in sections  
1017 and 1020.

30          3. Requirements for waiver. Upon application by a  
nongambling services vendor, the board may waive the employee  
32          license requirement under this section if the nongambling  
services vendor demonstrates to the board's satisfaction that the  
34          public interest is not served by the requirement of an employee  
license.

38          **§1017. Qualifications for license**

40          1. Minimum qualifications. Notwithstanding Title 5,  
chapter 341, and in addition to any requirements imposed by rules  
42          adopted by the board, a person must satisfy the following  
qualifications to be a slot machine operator, a slot machine  
44          distributor, a gambling services vendor, a nongambling services  
vendor or an employee of these entities:

46                  A. The person has completed the application form, promptly  
48                  and truthfully complied with all information requests of the  
board and complied with any applicable rules adopted by the  
50                  board;

2           B. The person has sufficient financial assets and  
4           responsibility to meet any financial obligations imposed by  
6           this chapter and, if applying for a slot machine operator  
8           license or slot machine operator license renewal, has  
10           sufficient financial assets and responsibility to continue  
12           operation of a commercial track;

14           C. The person has not knowingly or recklessly made a false  
16           statement of material fact in applying for a license under  
18           this chapter or any gambling-related license in any other  
20           jurisdiction;

22           D. In the case of a person applying to be a slot machine  
24           operator, the person has sufficient knowledge and experience  
26           in the business of operating slot machines to effectively  
28           operate the slot machine facilities to which the license  
30           application relates in accordance with this chapter and the  
32           rules and standards adopted under this chapter;

34           E. The person has not had a gambling-related license  
36           application denied or an adverse action taken against a  
38           gambling-related license by authorities in this State or any  
40           other jurisdiction. For purposes of this paragraph,  
42           "adverse action" includes, but is not limited to, a  
44           condition resulting from an administrative, civil or  
46           criminal violation, a suspension or revocation of a license  
48           or a voluntary surrender of a license to avoid or resolve a  
50           civil, criminal or disciplinary action;

F. If the applicant is a business organization, the  
          applicant is organized in this State, although that business  
          organization may be a wholly or partially owned subsidiary  
          of an entity that is organized pursuant to the laws of  
          another state or a foreign country; and

G. The person and all key individuals are citizens or  
          permanent residents of the United States.

A person may not hold more than one class of license under this  
          chapter unless the 2nd license is an employee license under  
          section 1015 or 1016. A slot machine operator may also be  
          licensed as a nongambling services vendor under section 1014.

2. Suitability. In addition to the minimum qualifications  
          set forth in subsection 1, a person may not receive a license  
          unless the board determines that the person is suitable and that  
          the public interest is served by granting or renewing the  
          person's license. In making a determination of suitability, the  
          board shall consider whether the person:

2 A. Is of good moral character. In determining whether a  
4 person is of good moral character, the board shall consider  
6 qualities that include but are not limited to honesty,  
8 candor, trustworthiness, diligence, reliability, observance  
10 of fiduciary and financial responsibility and respect for  
12 the rights of others;

14 B. Has not in any jurisdiction been convicted of or pled  
16 guilty or nolo contendere to a crime punishable by one year  
18 or more of imprisonment;

20 C. Has not been adjudicated of committing a civil violation  
22 or been convicted of a criminal violation involving  
24 dishonesty, deception, misappropriation or fraud;

26 D. Has not engaged in conduct in this State or any other  
28 jurisdiction that would constitute a violation of this  
30 chapter, chapter 11 involving gambling, Title 17, chapter  
32 13-A or 14 or Title 17-A, chapter 39 or substantially  
34 similar offenses in other jurisdictions;

36 E. Is not a fugitive from justice, a drug abuser, a drug  
38 addict, a drug-dependent person, an illegal alien or a  
40 person who was dishonorably discharged from the Armed Forces  
42 of the United States;

44 F. Is current in filing all applicable tax returns and in  
46 the payment of all taxes, penalties and interest owed to  
48 this State, any other state or the Internal Revenue Service,  
50 excluding items under formal appeal; and

G. Has demonstrated financial responsibility. For the  
purposes of this paragraph, "financial responsibility" means  
a demonstration of a current and expected future condition  
of financial solvency sufficient to satisfy the board that  
the person can successfully engage in business without  
jeopardy to the public health, safety and welfare.  
"Financial responsibility" may be determined by an  
evaluation of the total history concerning the person,  
including past, present and expected condition and record of  
financial solvency, business record and accounting and  
managerial practices.

3. Applicant other than individual. If the person required  
to meet the minimum qualifications and suitability requirements  
specified in subsections 1 and 2 is a business organization, the  
key individuals, directors, officers, partners, shareholders,  
creditors, owners and associates of the person must meet the  
suitability requirements specified in subsection 2.

2           4. Burden of proof. The applicant bears the burden of  
3           demonstrating eligibility, suitability and qualification for  
4           licensure pursuant to this chapter and any rules adopted under  
5           this chapter.

6           **§1018. Applications**

7           1. Form. An application for a license required under this  
8           chapter must be on the form provided by the board. The  
9           application must contain, but is not limited to, the following  
10           information regarding the individual applicant and each key  
11           employee, officer, director, partner, shareholder, creditor,  
12           associate or owner of any legal or beneficial interest in a  
13           person applying for a license:

14           A. Full name;

15           B. Full current address and addresses for the prior 15 years;

16           C. A record of previous issuances and denials of or any  
17           adverse action taken against a gambling-related license or  
18           application under this chapter or in any other  
19           jurisdiction. For purposes of this paragraph, "adverse  
20           action" includes, but is not limited to, a condition  
21           resulting from an administrative or criminal violation, a  
22           suspension or revocation of a license, or a voluntary  
23           surrender of a license to avoid or resolve criminal or  
24           disciplinary action;

25           D. All information the board determines is necessary or  
26           appropriate to determine whether the applicant satisfies the  
27           minimum qualifications specified in section 1017, subsection  
28           1; and

29           E. Any information the board by rule considers necessary.

30           2. Signature as certification. The applicant, by affixing  
31           the applicant's signature to the application, certifies:

32           A. That the statements made in the application and any  
33           documents made a part of the application are true and  
34           correct;

35           B. That the applicant understands that the information  
36           provided pursuant to subsection 1 is used by the board,  
37           along with other information, in judging the applicant's  
38           suitability and that this information may be cause for  
39           refusal to issue a license; and

2 C. That the applicant understands that knowingly making a  
4 false statement in the application, during the application  
6 process or in a document made a part of the application is  
8 among the grounds for refusal to issue a license or for  
10 revocation or suspension of a license.

12 3. Consent to review records. At the request of the board,  
14 the applicant shall take whatever action is necessary to permit  
16 the board, a designee of the board or the department to examine  
18 all accounts and records in the applicant's possession, under the  
20 applicant's control or under the control of 3rd parties but  
22 accessible by consent of the applicant, and must authorize all  
24 3rd parties in possession or in control of those accounts or  
26 records to allow the board, a designee of the board or the  
28 department to examine the accounts and records as the board, a  
30 designee of the board or the department determines necessary, to  
32 ascertain:

34 A. Whether the information supplied on the application or  
36 any documents made a part of the application is true and  
38 correct;

40 B. Whether each of the requirements of this chapter and  
42 rules adopted under this chapter has been met; and

44 C. Whether the applicant meets the requirements for  
46 licensure under this chapter and under rules adopted under  
48 this chapter.

The consent to review records includes the applicant's taking  
whatever action is necessary to permit the board, a designee of  
the board or the department to have access to confidential  
records held by banks, courts, law enforcement agencies and the  
military for purposes stated in this chapter. Refusal to provide  
consent or access to records is grounds for denial of a license.

4. Application for renewal. Application for renewal of a  
license issued under this chapter must be made no less than 6  
months prior to the expiration of the current license.

**§1019. Fees; term of license or registration; nontransferability;**  
**vested rights**

1. Fees. The application fee for a license and the annual  
fee for a registered slot machine under this chapter are as set  
out in this subsection.

A. The annual fee for a registered slot machine is \$50.

2 B. The application fee for a license for a slot machine  
distributor is \$200,000.

4 C. The application fee for a license for a slot machine  
operator is \$200,000.

6 D. The application fee for a license for a gambling  
8 services vendor or nongambling services vendor is \$2,000.

10 E. The application fee for an employee license under  
12 section 1015 is \$250 and under section 1016 is \$50.

14 In addition to the application fee for a license or annual fee  
for a registered slot machine, the board may charge a one-time  
16 application fee for a license or registration listed in  
paragraphs A to E in an amount equal to the projected cost of  
18 processing the application and performing any background  
investigations. If the actual cost exceeds the projected cost,  
20 an additional fee may be charged to meet the actual cost. If the  
projected cost exceeds the actual cost, the difference may be  
22 refunded to the applicant. All fees collected pursuant to this  
section must be deposited directly to the General Fund. All  
24 application and registration fees are nonrefundable and are due  
upon submission of the application.

26 2. Term of license; renewal. All licenses issued by the  
board under this chapter are effective for one year, unless  
28 revoked or surrendered pursuant to subchapter 5. A license may  
be renewed by the board for an additional year upon proper  
30 application in accordance with rules adopted by the board and  
payment of the required fees and taxes.

32 3. Not transferable. A license issued under this chapter is  
34 not transferable or assignable.

36 4. Hearing. A full adjudicatory hearing is not required  
for the denial of an initial license or registration  
38 application. Appeals of license or registration denials must be  
conducted in accordance with section 1051, subsection 4.

40 5. Vested rights. A person does not have any vested rights  
42 in any license, registration, authorization, permit, application  
or process provided or offered under this chapter.

44 **§1020. Other requirements**

46 1. Waiver of liability for disclosure. An applicant or  
48 licensee shall provide all information required by this chapter  
and rules adopted under this chapter and satisfy all requests for  
50 information pertaining to licensing, in the form specified by the

2 board. An applicant or licensee shall waive liability as to the  
4 State, its instrumentalities and agents for any damages resulting  
6 from any disclosure or publication in any manner other than a  
8 willful unlawful disclosure or publication of any material or  
10 information acquired during inquiries, investigations or hearings.

12 2. Continuing duty to disclose certain information. An  
14 applicant or licensee shall continue to provide any assistance or  
16 information required by the board and cooperate in any inquiry,  
18 investigation or hearing conducted by the board or the  
20 department. Failure to comply upon issuance of a formal request  
22 to answer or produce information, evidence or testimony may  
24 result in the denial or revocation of a license by the board.

26 3. Compensation or reward prohibited. Except as authorized  
28 in this chapter, an applicant or licensee may not give or provide  
30 or offer to give or provide, directly or indirectly, any  
32 compensation, reward or percentage or share of the money or  
34 property played or received through gambling activity in exchange  
36 for obtaining a license, authorization, permission or privilege  
38 to participate in gambling activities.

40 4. Identification. An applicant or licensee shall submit  
42 to photographing and fingerprinting for identification and  
44 investigation purposes in accordance with procedures established  
46 by the board.

48 5. Information regarding violations of chapter. An  
50 applicant or licensee shall inform the board of any action that  
52 the applicant or licensee believes would constitute a violation  
54 of this chapter. A person who so informs the board may not be  
56 discriminated against by another applicant or licensee because of  
58 the supplying of such information.

60 6. Proximity of licensed slot machine facilities. A  
62 license may not be issued under this chapter at any commercial  
64 track located within 100 miles of a licensed slot machine  
66 facility.

#### 68 **§1021. Registration of slot machines**

70 1. Registration required. A slot machine may not be  
72 operated or distributed pursuant to this chapter unless the slot  
74 machine is registered by the board and the slot machine operator  
76 and the slot machine distributor are each licensed by the board.

78 2. Requirements for registration. To be registered, a slot  
80 machine:

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

4 B. Must have one or more mechanisms that accept money or  
tokens, credits or similar objects or things of value and  
6 that are designed to prevent a person from obtaining credits  
or cash without paying;

8  
10 C. Must be designed to suspend operation until reset if a  
person attempts, by physical or other tampering, to obtain  
credits or cash without paying;

12  
14 D. Must have nonresettable meters housed in a readily  
accessible locked slot machine area that keep a permanent  
record of all cash inserted into the slot machine, credits  
16 or cash awarded by the slot machine, credits played for  
games and credits distributed by tickets issued by the slot  
18 machine;

20 E. Must have accounting software that keeps an electronic  
record of information that includes, but is not limited to,  
22 total cash inserted into the slot machine; total cash  
awarded, total credits played for games and total credits  
24 distributed by tickets issued by the slot machine; and the  
payback percentage of each game;

26  
28 F. Must have continuous on-line monitoring technology that  
allows the slot machine to be monitored by the board  
pursuant to section 1003, subsection 2;

30  
32 G. Must have a minimum payback percentage of 90%; and

34 H. Must have, in addition to the requirements of paragraphs  
A to G, other such characteristics as the board may  
36 establish by rule.

38 3. Limits on total slot machines. The board shall  
determine the number of slot machines to be registered in the  
State. The board shall make this determination based upon the  
40 minimum gross slot machine income, when distributed pursuant to  
section 1036, necessary to maintain the harness horse racing  
42 industry in this State, except that:

44 A. The total number of slot machines registered in the  
State may not exceed 3,000; and

46  
48 B. A slot machine operator may not operate more than 1,500  
slot machines at any one commercial track.





2       Each slot machine is subject to a uniform location agreement  
3       between the slot machine distributor and the slot machine  
4       operator. A copy of the agreement must be submitted to the board  
5       for approval. The uniform location agreement is the complete and  
6       sole agreement between the slot machine operator and the slot  
7       machine distributor regarding slot machines. No other agreement  
8       between the slot machine operator and the slot machine  
9       distributor is legally binding.

10       **§1034. Disclosure of other contracts and agreements**

11       A slot machine operator must submit to the board all  
12       contracts or agreements the slot machine operator establishes  
13       with a slot machine distributor, licensed gambling services  
14       vendor, licensed nongambling services vendor or a key individual.

15       **§1035. Location of slot machines**

16       Slot machines may be located only on the premises of a  
17       commercial track.

18       **§1036. Allocation of funds**

19       1. Distribution from commercial track. A slot machine  
20       operator shall collect and distribute gross slot machine income  
21       from slot machines operated by the slot machine operator as set  
22       out in this subsection.

23       A. Prior to any distribution under paragraph B, the slot  
24       machine operator shall forward the compensation percentage  
25       determined pursuant to section 1037 to the board, which  
26       shall forward it to the State Controller to be credited to  
27       the General Fund.

28       B. After the distribution made pursuant to paragraph A, the  
29       slot machine operator shall send 25% of the remainder of the  
30       total gross slot machine income to the board for  
31       distribution by the board as follows:

32               (1) One percent of the total gross slot machine income  
33               must be retained for administrative expenses of the  
34               board. An amount not to exceed \$250,000 may be expended  
35               by the board for addiction counseling services in  
36               accordance with rules adopted by the board;

37               (2) Seven percent of the total gross slot machine  
38               income must be used by the board to supplement harness  
39               racing purses and must be disbursed for that purpose at  
40               the times and in the manner prescribed in section 298;

41

2                   (3) One percent of the total gross slot machine income  
3                   must be credited by the board to the Sire Stakes Fund  
4                   created in section 281;

6                   (4) Three percent of the total gross slot machine  
7                   income must be forwarded by the board to the Treasurer  
8                   of State, who shall credit the money to the  
9                   Agricultural Fair Support Fund established in Title 7,  
10                   section 77;

12                   (5) Ten percent of the total gross slot machine income  
13                   must be forwarded by the board to the State Controller  
14                   to be credited to the Fund for a Healthy Maine  
15                   established by Title 22, section 1511 and segregated  
16                   into a separate account under Title 22, section 1511,  
17                   subsection 11, with use of funds in the account  
18                   restricted to the purposes described in Title 22,  
19                   section 1511, subsection 6, paragraph E;

21                   (6) Two percent of the total gross slot machine income  
22                   must be forwarded by the board to the Finance Authority  
23                   of Maine for application to the University of Maine  
24                   System Scholarship Fund created in Title 20-A, section  
25                   11631; and

27                   (7) One percent of the total gross slot machine income  
28                   must be forwarded by the board to the board of trustees  
29                   of the Maine Community College System to be applied by  
30                   the board of trustees to fund its scholarships program  
31                   under Title 20-A, section 12716, subsection 1.

33                   **2. Failure to deposit funds.** A slot machine operator who  
34                   knowingly or intentionally fails to comply with this section  
35                   commits a Class C crime. In addition to any other sanction  
36                   available by law, the license of that person may be revoked by  
37                   the board and the slot machines operated by that slot machine  
38                   operator may be disabled, and the slot machines, slot machines'  
39                   proceeds and associated equipment may be confiscated by the board  
40                   and are subject to forfeiture under Title 17-A, section 959 or  
41                   960.

42                   **3. Late payments.** The board may adopt rules establishing  
43                   the dates on which payments required by this section are due. All  
44                   payments not remitted when due must be paid together with  
45                   interest on the unpaid balance at a rate of 1.5% per month.

46                   **§1037. Annual compensation percentage calculation; impact fees**  
47                   **for certain gambling facilities**  
48

2        The annual compensation percentage distributed pursuant to  
3        section 1036, subsection 1, paragraph A must be calculated  
4        pursuant to this section.

6        **1. State administrative, regulatory and economic costs**  
7        **calculation.** Prior to the commencement of each state fiscal  
8        year, the Commissioner of Administrative and Financial Services  
9        shall establish a compensation percentage by routine technical  
10       rulemaking pursuant to Title 5, chapter 375, subchapter 2-A. The  
11       amount of the compensation percentage must be sufficient to  
12       compensate the State for all administrative, regulatory and  
13       economic costs, including lost lottery revenue, caused by the  
14       gambling activities licensed under this chapter and must account  
15       for the amount remitted to the board pursuant to section 1036,  
16       subsection 1, paragraph B, subparagraph (1). In addition,  
17       high-stakes beano and off-track betting operators may petition  
18       the commissioner for lost revenue directly associated with the  
19       gambling activities licensed under this chapter. The  
20       commissioner shall establish a procedure for determining such  
21       impacts by routine technical rulemaking pursuant to Title 5,  
22       chapter 375.

24       **2. Impact fees for certain gambling facility operators.** If  
25       a high-stakes beano or off-track betting facility operator  
26       demonstrates by a preponderance of the evidence to the  
27       Commissioner of Administrative and Financial Services that the  
28       operator has suffered a direct adverse economic impact as a  
29       result of a slot machine operator's activities licensed under  
30       this chapter and the high-stakes beano or off-track betting  
31       facility operator quantifies the specific amount of the adverse  
32       economic impact, then the commissioner shall include within the  
33       annual compensation percentage a sum equal to the sum of the  
34       actual harm incurred by the affected high-stakes beano or  
35       off-track betting facility. The sum must be remitted to the  
36       affected high-stakes beano or off-track betting facility operator  
37       within 30 days of receipt by the State of the annual compensation  
38       percentage remittance. The commissioner may adopt rules to  
39       administer this section. These rules are routine technical rules  
40       pursuant to Title 5, chapter 375, subchapter 2-A.

#### 42        **SUBCHAPTER 4**

#### 44        **RECORDS, ACCESS AND MONITORING**

#### 46        **§1041. Reports; records**

48        **1. Reports; records.** The board or department may require  
49        from any licensee whatever records and reports the board  
50        considers necessary for the administration and enforcement of  
51        this chapter and rules adopted under this chapter.



2           1. Disciplinary proceedings and sanctions. The department  
4           or its designee shall investigate a complaint on its own motion  
6           at the request of the board or upon receipt of a written  
8           complaint filed with the board or the department regarding  
10           noncompliance with or violation of this chapter or of any rules  
12           adopted by the board. The board or its designee may subpoena  
14           witnesses, records and documents, including records and documents  
16           maintained by any gambling services vendor or nongambling  
18           services vendor in contract, cooperation or consort with a  
20           licensee, in any investigation or hearing it conducts.

22           2. Notice of complaint or violation and request for  
24           hearing. Following investigation by the department or its  
26           designee, the director may file a notice of complaint and request  
28           for hearing with the board or may serve the licensee with notice  
30           of violation and proposed sanction and opportunity to request a  
32           hearing.

34           3. Further action. If the board or its designee finds  
36           after notice pursuant to subsection 2 that the factual basis of  
38           the complaint is true and is of sufficient gravity to warrant  
40           further action, it may take any of the following actions.

42           A. The board or its designee may enter into a consent  
44           agreement with the consent of the licensee that establishes  
46           the period and terms of probation necessary to protect the  
48           public health and safety and to rehabilitate or educate the  
50           licensee. A consent agreement may be used to terminate a  
              complaint investigation if a consent agreement is entered  
              into by the board, the licensee and the Attorney General.

B. If a licensee voluntarily surrenders a license, the board  
              or its designee may negotiate stipulations necessary to  
              ensure protection of the public health and safety and the  
              rehabilitation or education of the licensee. These  
              stipulations may be set forth only in a consent agreement  
              signed by the board, the licensee and the Attorney General.

C. The board may take disciplinary action against any  
              applicant or licensee pursuant to this chapter or any rules  
              adopted pursuant to this chapter. Disciplinary action,  
              including, but not limited to, a decision to impose a civil  
              penalty or to modify, suspend or revoke a license or  
              registration, may be predicated on the following grounds:

(1) Fraud or deceit in obtaining a license under this  
                  chapter or in connection with service rendered within  
                  the scope of the license issued;

- 2                   (2) A violation of this chapter or any rule adopted by  
the board;
- 4                   (3) Ineligibility to hold a license or registration  
under this chapter;
- 6
- 8                   (4) Subject to the limitations of Title 5, chapter  
341, conviction of a crime that involves dishonesty or  
false statement, conviction of a crime for which  
incarceration for one year or more may be imposed or  
conviction of a crime defined in Title 17-A, chapter  
39; or
- 12
- 14                   (5) Grounds other than those described in  
subparagraphs (1) to (4) specified by rule or law.
- 16

18           4. Appeals. A person aggrieved by the decision of a  
designee of the board in modifying or refusing to issue or renew  
a license or registration, in taking any disciplinary action  
pursuant to this chapter or rules adopted pursuant to this  
chapter or in the interpretation of this chapter or rules adopted  
pursuant to this chapter may appeal the decision to the board for  
a final decision. The designee's decision stands until the board  
issues a decision to uphold, modify or overrule the designee's  
decision. In the case of appeal to the board, the person must be  
afforded an opportunity for an adjudicatory hearing in accordance  
with this chapter and the Maine Administrative Procedure Act.

28

30           A person aggrieved by a final decision of the board in waiving  
the application of any rule, in refusing to issue or renew a  
license or registration, in taking any disciplinary action  
pursuant to this chapter or rules adopted pursuant to this  
chapter or in the interpretation of this chapter or any rule  
adopted pursuant to this chapter may appeal the board's decision  
to the Superior Court in accordance with Title 5, chapter 375,  
subchapter 7.

38           **§1052. Confidentiality**

40           All reports, information or records compiled by the board or  
the department pursuant to this subchapter regarding an  
applicant, licensee, owner or key individual are confidential,  
except that the board may disclose any confidential information  
as follows.

46           1. Hearings or proceedings. Confidential information may  
be released in an adjudicatory hearing or informal conference  
before the board or in any subsequent formal proceeding to which  
the information is relevant.

50

2           2. Consent agreements or settlements. Confidential  
3 information may be released in a consent agreement or other  
4 written settlement when the information constitutes or pertains  
5 to the basis of board action.

6           3. During investigation. All complaints and investigative  
7 records of the board are confidential during the pendency of an  
8 investigation. Those records become public records upon the  
9 conclusion of an investigation unless confidentiality is required  
10 by some other provision of law. For purposes of this subsection,  
11 an investigation is concluded when:

12           A. A notice of an adjudicatory hearing as defined under  
13 Title 5, chapter 375, subchapter 1 has been issued;

14           B. A consent agreement has been executed; or

15           C. A letter of dismissal has been issued or the  
16 investigation has otherwise been closed.

17           4. Exceptions. Notwithstanding subsection 3, during the  
18 pendency of an investigation, a complaint or investigative record  
19 may be disclosed:

20           A. To the department;

21           B. To other state or federal agencies when the record  
22 contains evidence of possible violations of laws, rules or  
23 regulations enforced by those agencies or as the board or  
24 the board's designee considers appropriate;

25           C. When and to the extent considered necessary by the  
26 director to avoid imminent and serious harm. The authority  
27 of the director to make such a disclosure may not be  
28 delegated;

29           D. Pursuant to rules adopted by the board, when it is  
30 determined that confidentiality is no longer warranted due  
31 to general public knowledge of the circumstances surrounding  
32 the complaint or investigation and when the investigation  
33 would not be prejudiced by the disclosure; or

34           E. To the person investigated on request of that person.  
35 The director may refuse to disclose part or all of any  
36 investigative information, including the existence of an  
37 investigation if the director determines that disclosure  
38 would prejudice the investigation. The authority of the  
39 director to make such a determination may not be delegated.

40           §1053. Disciplinary action by the board



2           1. Possible sanctions. For each violation of this chapter  
or the rules or conditions of licensure or registration, the  
4 board may take one or more of the following actions:

6           A. Issue a warning, censure or reprimand to a licensee or  
registrant. Each warning, censure or reprimand issued must  
8 be based upon a violation of a different applicable law,  
rule or condition of licensure or must be based upon a  
10 separate instance of actionable conduct or activity;

12           B. Suspend a license or registration for up to 360 days for  
each violation of an applicable law, rule or condition of  
14 licensure or registration or instance of actionable conduct  
or activity. Suspensions may be set to run concurrently or  
16 consecutively. Execution of all or any portion of a term of  
suspension may be stayed pending successful completion of  
18 conditions of probation, although the suspension remains  
part of the licensee's or registrant's record;

20           C. Revoke a license or registration;

22           D. Impose a fine of up to \$100,000 for each violation of an  
applicable law, rule or condition of licensure or  
24 registration or instance of actionable conduct or activity;

26           E. Impose conditions of probation upon a licensee or  
registrant. Probation may run for such time period as the  
28 board determines appropriate; and

30           F. Impose costs of investigation and hearing.

32           2. Consent agreements. The board may execute a consent  
34 agreement that resolves a complaint or investigation without  
further proceedings. Consent agreements may be entered into only  
36 with the consent of the licensee or registrant, the board and the  
Attorney General. Any remedy, penalty or fine that is otherwise  
38 available by law may be achieved by consent agreement, including  
long-term suspension and permanent revocation of a license or  
40 registration. A consent agreement is not subject to review or  
appeal and may be modified only by a writing executed by all  
42 parties to the original consent agreement. A consent agreement is  
enforceable by an action in Superior Court.

44           3. Surrender of license or registration. The board may  
46 accept surrender of a license or registration. In order for a  
licensee's or registrant's surrender of a license or registration  
48 to be effective, a surrender must first be accepted by vote of  
the board. The board may refuse to accept surrender of a license  
50 or registration if the licensee or registrant is under

2 investigation or is the subject of a pending complaint or  
3 proceeding, unless a consent agreement is first entered into  
4 pursuant to this chapter.

5 4. Letters of guidance or concern. The board may issue  
6 letters of guidance or concern to a licensee or registrant.  
7 Letters of guidance or concern may be used to educate, reinforce  
8 knowledge regarding legal or professional obligations and express  
9 concern over action or inaction by the licensee or registrant  
10 that does not rise to the level of misconduct sufficient to merit  
11 disciplinary action. The issuance of a letter of guidance or  
12 concern is not a formal proceeding and does not constitute an  
13 adverse disciplinary action of any form. Notwithstanding any  
14 other provision of law, letters of guidance or concern are not  
15 confidential. The board may place letters of guidance or concern,  
16 together with any underlying complaint, report and investigation  
17 materials, in a licensee's or registrant's file for a specified  
18 amount of time, not to exceed 10 years. Any letters, complaints  
19 and materials placed on file may be accessed and considered by  
20 the board in any subsequent action commenced against the licensee  
21 or registrant within the specified time frame. Complaints,  
22 reports and investigation materials placed on file are  
23 confidential only to the extent otherwise provided by law.

#### 24 §1054. Criminal violations

25 A person commits a Class C crime if that person knowingly or  
26 intentionally:

27 1. Tampering with slot machine. Manipulates or intends to  
28 manipulate the outcome, payback or operation of a slot machine by  
29 physical tampering or any other means;

30 2. Interference. Interferes with the board's ability to  
31 monitor compliance with this chapter;

32 3. Operation or distribution without license. Operates or  
33 distributes a slot machine in this State without a license;

34 4. Operation or distribution of unregistered slot machine.  
35 Operates or distributes a slot machine that is not registered in  
36 this State;

37 5. Possession of tools for purpose of tampering with slot  
38 machine. Possesses or makes any tool, implement, instrument or  
39 other article that is adopted, designed or commonly used for  
40 manipulating the outcome, payback or operation of a slot machine  
41 with intent to use that tool, implement, instrument or other  
42 article to commit the manipulation of a slot machine;

43  
44  
45  
46  
47  
48  
49  
50



2       This chapter may not be construed to limit municipal  
3       regulation of the activities licensed under this chapter, as long  
4       as such municipal regulation does not conflict with this chapter  
5       or rules adopted under this chapter.

6       **§1063. Rules**

8       Rules adopted pursuant to this chapter are routine technical  
9       rules pursuant to Title 5, chapter 375, subchapter 2-A.

10       **§1064. Applicability of Title 17, chapter 14**

12       Except as expressly provided in this chapter, the provisions  
13       of Title 17, chapter 14 do not apply to the ownership,  
14       distribution or operation of slot machines in the State.

16       **Sec. A-5. 17-A MRSA §952, sub-§5-A, ¶¶B and C,** as enacted by  
17       PL 2001, c. 461, §1, are amended to read:

- 20           B. That is used to advance gambling activity; and
- 22           C. That is not a machine that a person may lawfully operate  
23           pursuant to a license that has been issued under Title 17,  
24           chapter 14 or that is operated by the Department of  
25           Administrative and Financial Services, Bureau of Alcoholic  
26           Beverages and Lottery Operations; and

28       **Sec. A-6. 17-A MRSA §952, sub-§5-A, ¶D** is enacted to read:

30           D. That is not a slot machine registered pursuant to Title  
31           8, section 1021 and owned by a slot machine distributor  
32           licensed pursuant to Title 8, section 1012.

34       **Sec. A-7. 17-A MRSA §959, sub-§§1 and 2,** as enacted by PL  
35       2001, c. 461, §2, are amended to read:

- 38           1. An illegal gambling machine, including any monetary  
39           contents and any associated proceeds, is subject to forfeiture to  
40           the State.
- 42           2. An illegal gambling machine and, any monetary contents  
43           and any associated proceeds may be declared forfeited under this  
44           section by any court that has jurisdiction over the illegal  
45           gambling machine or final jurisdiction over any related criminal  
46           proceeding brought under this chapter or by the Superior Court  
47           for Kennebec County. Property subject to forfeiture may be kept  
48           or stored at any location within the territorial boundaries of  
49           the State and is subject to the authority of any court in which a  
50           petition seeking the forfeiture of that property is filed.



- 2                   (2) Processing appeals;
- 4                   (3) Licensing of tracks and off-track betting  
6                   facilities;
- 8                   (4) Setting race dates; and
- 10                   (5) Making reports to the Governor and Legislature and  
12                   recommendations to the commissioner regarding harness  
14                   racing and off-track betting operations and the need  
16                   for changes in statutes and rules; and

14                   B. Management of the work of the department regarding  
16                   harness racing and off-track betting, including:

- 18                   (1) Supervision of all staff involved in harness  
20                   racing and off-track betting functions;
- 22                   (2) Management of the collection and distribution of  
24                   revenues under this chapter;
- 26                   (3) Budget development and management;
- 28                   (4) Policy development with regard to harness racing  
30                   and off-track betting;
- 32                   (5) Management of participant licensing;
- 34                   (6) Enforcement of harness racing and off-track  
36                   betting statutes and rules;
- 38                   (7) Investigation of harness racing and off-track  
40                   betting violations; and
- 42                   (8) Facilitating the development of positive working  
44                   relationships in the harness racing industry and State  
46                   Government.

40                   **Sec. B-3. 8 MRSA §271, sub-§1**, as amended by IB 2003, c. 1,  
42                   §3, is further amended to read:

44                   **1. Licensing.** If the commission is satisfied that all of  
46                   this chapter and rules prescribed by the commission have been  
48                   substantially complied with during the past year and will be  
50                   fully complied with during the coming year by the person,  
                 association or corporation applying for a license; that the  
                 applicant, its members, directors, officers, shareholders,  
                 employees, creditors and associates are of good moral character;  
                 that the applicant is financially responsible; and that the award

2 of racing dates to the applicant is appropriate under the  
3 criteria contained in subsection 2, it may issue a license for  
4 the holding of harness horse races or meets for public exhibition  
5 with pari-mutuel pools, which must expire on December 31st. The  
6 fee for a license is \$100 or \$10 per week, whichever is higher.  
7 The commission shall provide a booklet containing harness racing  
8 laws and rules and relevant portions of the Maine Administrative  
9 Procedure Act to every initial licensee and a fee not to exceed  
10 \$10 must be included in the license fee to cover the cost of this  
11 publication. The commission shall provide necessary revisions of  
12 this booklet to those persons renewing licenses at the time of  
13 renewal and shall include the cost of the revisions, not to  
14 exceed \$10, in the renewal fee. The license must set forth the  
15 name of the licensee, the place where the races or race meets are  
16 to be held and the specific race dates and time of day or night  
17 during which racing may be conducted by the licensee. If the  
18 commission determines that the location where a commercial track  
19 is licensed to conduct races is unavailable, it may permit a  
20 licensee to transfer its license to another location. The  
21 substitute location and the races conducted there by the licensee  
22 must be conducted in accordance with this chapter. A license  
23 issued pursuant to this subsection is not transferable or  
24 assignable. The District Court Judge, as designated in Title 4,  
25 chapter 5, may revoke any license issued at any time for  
26 violation of the commission's rules or licensing provisions upon  
27 notice and hearing. ~~A license issued under this section is  
28 transferable or assignable as long as the commission finds that  
29 the transferee or assignee satisfies all elements for the  
30 issuance of the license being transferred or assigned. A~~ The  
31 license is automatically revoked, subject to Title 5, chapter  
32 375, upon a change in ownership, legal or equitable, of 50% or  
33 more of the voting stock of a corporation licensed under this  
34 section constitutes a transfer of the license the licensee; the  
35 licensee may not hold a harness horse race or meet for public  
36 exhibition without a new license.

37 **Sec. B-4. 8 MRSA §§296 and 297,** as enacted by IB 2003, c. 1,  
38 §4, are repealed.

39 **Sec. B-5. 8 MRSA c. 30,** as amended, is repealed.

40 **Sec. B-6. 22 MRSA §1511, sub-§10,** as enacted by IB 2003, c. 1,  
41 §6, is repealed.

42 **Sec. B-7. 25 MRSA §3902, sub-§4,** as enacted by IB 2003, c. 1,  
43 §7, is repealed.

44 **Sec. B-8. Statement of intent.** It is the intent of the  
45 Legislature that this Act amend Initiated Bill 2003, chapter 1.  
46 This Act establishes the Gambling Control Board within the  
47  
48  
49  
50

2 Department of Public Safety with authority over all slot machine  
licensing and distribution and registration. It is the intent of  
4 the Legislature that all slot machine operators and slot machine  
distributors be licensed by the Gambling Control Board pursuant  
6 to the Maine Revised Statutes, Title 8, chapter 31. The  
Legislature intends that the amendment effected by this Act be  
8 effective on or prior to the effective date of the initiated  
bill. It is further the intent of the Legislature that this bill  
10 extinguish any right, title or interest, whether vested or  
inchoate, in any license, registration, permit, privilege or  
12 entitlement that may have arisen under Initiated Bill 2003,  
chapter 1.

14 **Sec. B-9. Retroactivity.** The Act applies retroactively to  
January 3, 2004.

16 **Emergency clause.** In view of the emergency cited in the  
18 preamble, this Act takes effect when approved.

## 20 SUMMARY

22  
24 This bill effectively amends Initiated Bill 2003, chapter 1  
as approved by the voters at referendum in November 2003, which  
26 allows the operation of slot machines by certain persons who are  
licensed to operate commercial harness horse racing tracks.

28 Part A of the bill establishes the Gambling Control Board  
within the Department of Public Safety to regulate the operation,  
30 distribution and maintenance of slot machines and the facilities  
at which those slot machines are located. The Gambling Control  
32 Board consists of 5 members who serve staggered 3-year terms and  
who are appointed by the Governor. The bill maintains the  
34 eligibility criteria for slot machine operators, but establishes  
licensing criteria applicable to all potential slot machine  
36 operators, thereby eliminating the initiated bill's automatic  
licensing provisions. The bill reverses the liberalization of  
38 harness horse track transfer regulations contained in the  
initiated bill. The bill creates a framework through which the  
40 Gambling Control Board will regulate and monitor slot machine  
operators, distributors and gambling-related vendors and service  
42 providers.

44 Part A maintains the distribution of the gross income from  
slot machines, which is income after payback to players, as  
46 proposed in the initiated bill. However, the bill also allows  
the Commissioner of Administration and Financial Services to  
48 establish a "compensation percentage." The compensation  
percentage is defined as a percentage of the gross income  
50 necessary to compensate the State for all administrative,



2 regulatory and economic costs associated with slot machine  
operations. In addition, the Commissioner of Administration and  
4 Financial Services is permitted to award "impact fees" to  
off-track betting and high-stakes beano operators that  
6 demonstrate adverse effects on their businesses as a direct  
result of the introduction of slot machine operations.

8 Part A restricts the number of slot machines to that  
required to maintain the vitality of Maine's harness horse racing  
10 industry, as determined by the Gambling Control Board. The  
number is limited to 1,500 slot machines at any one location and  
12 3,000 slot machines statewide. The bill requires slot machine  
operators to continue harness horse racing for the term of their  
14 licenses.

16 Part A establishes a minimum payback percentage of 90%. A  
person under 21 years of age is prohibited from playing a slot  
18 machine.

20 Part A further specifies that slot machines and associated  
equipment, as those terms are defined, are exempt from inclusion  
22 in the Business Equipment Tax Reimbursement program established  
in Title 36, chapter 915.

24 Part B of this bill makes the changes necessary to the  
initiated bill and to extinguish any rights that may have arisen  
26 under Initiated Bill 2003, chapter 1 retroactive to January 3,  
28 2004, the effective date of the initiated bill.